# FEDERAL REGISTER

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*Washington, Tuesday, July 15, 1958*


## TITLE 6—AGRICULTURAL CREDIT

### Chapter IV—Commodity Stabilization Service and Commodity Credit Corporation, Department of Agriculture

**Subchapter B—Loans, Purchases, and Other Operations**

[1958 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Wheat]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1958-CROP WHEAT LOAN AND PURCHASE AGREEMENT PROGRAM

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 23 F. R. 3485, containing the specific requirements for the 1958-crop wheat price support program are hereby amended as follows:

1. Section 421.3043 (a) (3) (i) is amended to include Port Arthur, Tex., so that as amended it reads as follows:

(3) (i) Notwithstanding the foregoing provisions of this paragraph, the support rate for wheat shipped by rail or water and stored at any of the following terminal markets and for which neither registered freight bills nor registered freight certificates are presented to guaranteed outbound movement at the minimum proportional domestic interstate freight rate, shall be equal to the applicable terminal rate:

Los Angeles, San Francisco, Stockton, and Oakland, Calif.
New Orleans, La.
Baltimore, Md.
Duluth, Minn.
Portland and Astoria, Oreg.
Albany and New York, N. Y.
Philadelphia, Pa.
Galveston, Houston, Corpus Christi, and Port Arthur, Tex.
Norfolk, Va.
Seattle, Longview, Tacoma, and Vancouver, Wash.
Superior, Wis.

2. Section 421.3043 (a) (3) (ii) is amended to provide a deduction from the terminal rate for wheat received by truck at Port Arthur, Tex., so that as amended it reads as follows:

(ii) Notwithstanding the foregoing provisions of this paragraph, the support rate for wheat received by truck and stored at any of the terminal markets listed in subdivision (i) of this subparagraph shall be determined by making a deduction from the terminal rate as follows:

| Terminal: | *Amount of deduction (cents per bushel)* |
|---|---|
| Los Angeles, San Francisco, Stockton, and Oakland, Calif.; Duluth, Minn.; Portland and Astoria, Oreg.; Seattle, Longview, Tacoma, and Vancouver, Wash.; Superior, Wis | 4½ |
| New Orleans, La.; Baltimore, Md.; Philadelphia, Pa.; Galveston, Houston, Corpus Christi, and Port Arthur, Tex.; Norfolk, Va.; Albany and New York, N. Y. | 6 |

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 101, 401, 63 Stat. 1051, 1054; 15 U. S. C. 714c; 7 U. S. C. 1441, 1421)

Issued this 10th day of July 1958.

[SEAL] CLARENCE L. MILLER,
*Acting Executive Vice President, Commodity Credit Corporation.*

[F. R. Doc. 58-5395; Filed, July 14, 1958; 8:54 a. m.]

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[1958 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Barley]

PART 421—GRAINS AND RELATED COMMODITIES

SUBPART—1958-CROP BARLEY LOAN AND PURCHASE AGREEMENT PROGRAM

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 23 F. R. 3492, containing the specific requirements for the 1958-crop barley price support program are hereby amended as follows:

1. Section 421.3083 (a) (1) is amended by adding the following to the list of terminal markets and basic support rates per bushel:

Port Arthur, Tex. ..... $1.24

(Continued on p. 5319)

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FEDERAL REGISTER

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## CODIFICATION GUIDE

A numerical list of the parts of the Code of Federal Regulations affected by documents published in this issue. Proposed rules, as opposed to final actions, are identified as such.

## CODIFICATION GUIDE—Con.



2. Section 421.3083 (a) (6) (i) is amended to include Port Arthur, Tex., so that as amended it reads as follows:

(6) (i) Notwithstanding the foregoing provisions of this paragraph barley shipped by rail or water and stored at any of the following terminal markets and for which neither registered freight bills nor registered freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate, shall have a support rate equal to the applicable terminal rate:

Los Angeles, San Francisco, Stockton, and Oakland, Calif.
New Orleans, La.
Baltimore, Md.
Duluth, Minn.
Portland and Astoria, Oreg.
Albany and New York, N. Y.
Philadelphia, Pa.
Galveston, Houston, and Port Arthur, Tex.
Norfolk, Va.
Seattle, Longview, Tacoma, and Vancouver, Wash.
Superior, Wis.

3. Section 421.3083 (a) (6) (ii) is amended to provide a deduction from the terminal rate for barley received by truck at Port Arthur, Tex., so that as amended it reads as follows:

(ii) Notwithstanding the foregoing provisions of this paragraph, the support rate for barley received by truck and stored at any of the terminal markets listed in subdivision (i) of this subparagraph, shall be determined by making a deduction of 3½ cents per bushel from the terminal rate.

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, sec. 401, 63 Stat. 1054, sec. 308, 70 Stat. 206; 15 U. S. C. 714c; 7 U. S. C. 1421, 1447)

Issued this 10th day of July 1958.

[SEAL] CLARENCE L. MILLER,
*Acting Executive Vice President, Commodity Credit Corporation.*

[F. R. Doc. 58-5396; Filed, July 14, 1958; 8:54 a. m.]

[1958 C. C. C. Grain Price Support Bulletin 1, Supp. 1, Amdt. 1, Rye]

### PART 421—GRAINS AND RELATED COMMODITIES

#### SUBPART—1958-CROP RYE LOAN AND PURCHASE AGREEMENT PROGRAM

The regulations issued by the Commodity Credit Corporation and the Commodity Stabilization Service published in 23 F. R. 3500, containing the specific requirements for the 1958-crop rye price support program are hereby amended as follows:

1. Section 421.3383 (a) (1) is amended by adding the following to the list of terminal markets and basic support rates per bushel:

Port Arthur, Tex. $1.42

2. Section 421.3383 (a) (6) (i) is amended to include Port Arthur, Tex., so that as amended it reads as follows:

(6) (i) Notwithstanding the foregoing provisions of this paragraph the support rate for rye shipped by rail or water and stored at any of the following terminal markets for which neither registered freight bills nor registered freight certificates are presented to guarantee outbound movement at the minimum proportional domestic interstate freight rate shall be equal to the applicable terminal rate:

Los Angeles, Stockton, and San Francisco, Calif.
Baltimore, Md.
Duluth, Minn.
Portland and Astoria, Oreg.
Albany and New York, N. Y.
Philadelphia, Pa.
Galveston, Houston, and Port Arthur, Tex.
Norfolk, Va.
Seattle, Longview, Tacoma, and Vancouver, Wash.
Superior, Wis.

3. Section 421.3383 (a) (6) (ii) is amended to provide a deduction from the terminal rate for rye received by truck at Port Arthur, Tex., so that as amended it reads as follows:

(ii) Notwithstanding the foregoing provisions of this paragraph the support rate for rye received by truck and stored at any of the terminal markets listed in subdivision (i) of this subparagraph shall be determined by making a deduction from the terminal rate as follows:

| Terminal: | *Amount of deduction (cents per bushel)* |
|---|---|
| Los Angeles, Stockton, and San Francisco, Calif.; Duluth, Minn.; Portland and Astoria, Oreg.; Seattle, Longview, Tacoma, and Vancouver, Wash.; Superior, Wis. | 4½ |
| Baltimore, Md.; Philadelphia, Pa.; Galveston, Houston, and Port Arthur, Tex.; Norfolk, Va.; Albany and New York, N. Y. | 6 |

(Sec. 4, 62 Stat. 1070, as amended; 15 U. S. C. 714b. Interpret or apply sec. 5, 62 Stat. 1072, secs. 301, 401, 63 Stat. 1053, 1054; 15 U. S. C. 714c; 7 U. S. C. 1447, 1421)

Issued this 10th day of July 1958.

[SEAL] CLARENCE L. MILLER,
*Acting Executive Vice President, Commodity Credit Corporation.*

[F. R. Doc. 58-5394; Filed, July 14, 1958; 8:54 a. m.]

# TITLE 5—ADMINISTRATIVE PERSONNEL

## Chapter III—Foreign and Territorial Compensation

[Dept. Reg. 108.367]

### PART 301—ADDITIONAL COMPENSATION AND CREDIT GRANTED CERTAIN EMPLOYEES OF FEDERAL GOVERNMENT SERVING OUTSIDE UNITED STATES

#### SUBPART E—UNHEALTHFUL POSTS

Pursuant to section 853 of the Foreign Service Act of 1946, as amended, and section 503 of Executive Order 10261 dated June 27, 1951, as amended, the following changes in the list of unhealthful places in § 301.61 established by Executive Order No. 5644 of June 8, 1931, as amended by the second paragraph of Executive Order No. 6942 of January 8, 1935, Executive Order No. 7062 of June 5, 1935, Executive Order No. 10000 of September 16, 1948, as amended, and Departmental Regulations 108.149 of March 13, 1952; 108.224 of June 1, 1954; 108.295 of August 15, 1956; and 108.322 of July 5, 1957 are made:

1. The following places are designated as unhealthful, effective as of January 1, 1942:

Abidjan, Ivory Coast.
Kampala, Uganda.

2. The designation of Florianopolis, Brazil, and Iskenderun, Turkey, as unhealthful is cancelled, effective as of the signature date of this regulation. The cancellation of this designation shall not affect any credit which has accrued for service at Florianopolis and Iskenderun prior to the date of his regulation.

(Secs. 303, 443, 853, 60 Stat. 1002, 1006, 1024; sec. 207, 62 Stat. 194, 1205; 22 U. S. C. 843, 888, 1093, 5 U. S. C. 118h)

For the Secretary of State.

W. K. SCOTT,
*Assistant Secretary.*

JULY 3, 1958.

[F. R. Doc. 58-5374; Filed, July 14, 1958; 8:51 a. m.]

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[Dept. Reg. 108.366]

### PART 325—ADDITIONAL COMPENSATION IN FOREIGN AREAS

#### DESIGNATION OF DIFFERENTIAL POSTS

Section 325.11 *Designation of differential posts,* is amended as follows, effective on the dates indicated:

1. Effective as of the beginning of the first pay period following July 12, 1958, paragraph (a) is amended by the deletion of the following:

Eleuthera Island, British West Indies.
Grand Bahama Island, British West Indies.
Grand Cayman, British West Indies.
Grand Turk Island, British West Indies.
Izatnagar, India.
Little Carter Cay, British West Indies.
Mayaguana Island, British West Indies.
San Salvador Island, British West Indies.

2. Effective as of the beginning of the first pay period following July 12, 1958,

paragraph (b) is amended by the deletion of the following:

India, all posts except Anand, Bangalore, Bhopal, Bombay, Calcutta, Chandigarh, Gwalior, Hazaribagh, Hyderabad, Izatnagar, Jodhpur, Lucknow, Ludhiana, Madras, Nabha, Nagpur, New Delhi, Pipri, Poona, Rajkot, Simla, Sindri, Trivandrum, Udaipur, and Vellore.

Iran, all posts except Ahwaz, Dezful, Isfahan, Kerman, Khaneh, Shiraz, and Tehran.

3. Effective as of the beginning of the first pay period following July 12, 1958, paragraph (c) is amended by the deletion of the following:

Bandung, Indonesia.

4. Effective as of the beginning of the first pay period following July 12, 1958, paragraph (d) is amended by the deletion of the following:

Antigua Island, British West Indies.
Kuala Lumpur, Malaya.

5. Effective as of the beginning of the first pay period following April 5, 1958, paragraph (a) is amended by the addition of the following:

Semarang, Indonesia.

6. Effective as of the beginning of the first pay period following July 12, 1958, paragraph (a) is amended by the addition of the following:

Eleuthera Island, Bahamas.
Grand Bahama Island, Bahamas.
Grand Cayman, T. W. I.
Grand Turk Island, T. W. I.
Izatnagar-Bareilly, India.
Little Carter Cay, Bahamas.
Mayaguana Island, Bahamas.
Sanandaj, Iran.
San Salvador Island, Bahamas.

7. Effective as of the beginning of the first pay period following July 12, 1958, paragraph (b) is amended by the addition of the following:

Bandung, Indonesia.

India, all posts except Anand, Bangalore, Bhopal, Bombay, Calcutta, Chandigarh, Gwalior, Hazaribagh, Hyderabad, Izatnagar-Bareilly, Jodhpur, Lucknow, Ludhiana, Madras, Nabha, Nagpur, New Delhi, Pipri, Poona, Rajkot, Simla, Sindri, Trivandrum, Udaipur, and Vellore,

Iran, all posts except Ahwaz, Dezful, Isfahan, Kerman, Khaneh, Sanandaj, Shiraz, and Tehran.

8. Effective as of June 11, 1958, paragraph (d) is amended by the addition of the following:

Beirut, Lebanon.
Tall Amara, Lebanon.
Terbol, Lebanon.

9. Effective as of the beginning of the first pay period following July 12, 1958, paragraph (d) is amended by the addition of the following:

Antigua Island, T.W.I.

(Sec. 102, Part I, E. O. 10000, 13 F. R. 5453, 3 CFR, 1948 Supp.)

For the Secretary of State.

W. K. SCOTT,
*Assistant Secretary.*

JULY 2, 1958.

[F. R. Doc. 58-5373; Filed, July 14, 1958; 8:51 a. m.]

# TITLE 21—FOOD AND DRUGS

## Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

### Subchapter C—Drugs

### PART 146—GENERAL REGULATIONS FOR THE CERTIFICATION OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

#### ANIMAL FEED CONTAINING ANTIBIOTIC DRUGS

Under the authority vested in the Secretary of Health, Education, and Welfare by the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 357, 371) and delegated to the Commissioner of Food and Drugs by the Secretary (22 F. R. 1045), the general regulations for the certification of antibiotic and antibiotic-containing drugs (21 CFR, 1957 Supp., 146.26) are amended by adding to paragraph (b) of § 146.26 *Animal feed containing penicillin* * * * the following new subparagraph (40) as follows:

(40) It is intended for use as an aid in maintaining or increasing egg production, hatchability of eggs, reduction of the effects of stress, prevention of early mortality of chicks, and reduction of the effects of diseases when due to organisms that are sensitive to bacitracin, for the stimulation of appetite, and for improving feed efficiency as related to egg production; its labeling bears adequate directions and warnings for such use; and it contains, per ton of feed, the equivalent of 50 grams of bacitracin when fed during the first 4 to 6 weeks of egg production, and not less than the equivalent of 10 grams of bacitracin when fed during the remainder of the laying period; except that if it is intended for use to increase egg hatchability or prevention of early mortality of chicks or for use in the presence of disease outbreaks or during periods of stress it shall contain the equivalent of 100 grams of bacitracin per ton of feed, and its labeling shall include a statement that at this level it shall be fed for not more than 15 days.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and I so find, since it was drawn in collaboration with interested members of the affected industry, since it relaxes existing requirements, and since it would be against public interest to delay providing for the amendment herein set forth.

I further find that animal feed containing antibiotic drugs and conforming with the conditions prescribed in this order need not comply with the requirements of sections 502 (1) and 507 of the Federal Food, Drug, and Cosmetic Act in order to ensure their safety and efficacy.

*Effective date.* This order shall become effective upon publication in the FEDERAL REGISTER, since both the public and the affected industry will benefit by the earliest effective date, and I so find.

(Sec. 701, 52 Stat. 1055, as amended; 21 U. S. C. 371. Interprets or applies secs. 502, 507, 52 Stat. 1051, 59 Stat. 463 as amended; 21 U. S. C. 352, 357)

Dated: July 3, 1958.

[SEAL] GEO. P. LARRICK,
*Commissioner of Food and Drugs.*

[F. R. Doc. 58-5349; Filed, July 14, 1958; 8:45 a. m.]

# TITLE 7—AGRICULTURE

## Chapter II—Agricultural Marketing Service (School Lunch Program), Department of Agriculture

### PART 210—REGULATIONS AND PROCEDURES

#### APPENDIX—APPORTIONMENT OF FOOD ASSISTANCE FUNDS PURSUANT TO NATIONAL SCHOOL LUNCH ACT, AS AMENDED, FISCAL YEAR 1959

Pursuant to section 4 of the National School Lunch Act, as amended (42 U. S. C. 1751–1760), food assistance funds available for the fiscal year ending June 30, 1959 are apportioned among the States as follows:

| State | Total | State agency | Withheld for private schools |
|---|---|---|---|
| Alabama | $2,885,351 | $2,799,830 | $85,521 |
| Alaska | 61,776 | 61,776 | |
| Arizona | 677,505 | 626,303 | 51,202 |
| Arkansas | 1,794,518 | 1,758,356 | 36,162 |
| California | 4,991,042 | 4,991,042 | |
| Colorado | 848,709 | 775,586 | 73,123 |
| Connecticut | 735,116 | 735,116 | |
| Delaware | 132,837 | 107,322 | 25,515 |
| District of Columbia | 237,538 | 237,538 | |
| Florida | 1,984,123 | 1,886,696 | 97,427 |
| Georgia | 2,938,179 | 2,938,179 | |
| Guam | 61,888 | 52,280 | 9,608 |
| Hawaii | 336,483 | 272,623 | 63,860 |
| Idaho | 433,752 | 418,367 | 15,385 |
| Illinois | 3,555,630 | 3,555,630 | |
| Indiana | 2,212,423 | 2,212,423 | |
| Iowa | 1,604,575 | 1,426,852 | 177,723 |
| Kansas | 1,185,528 | 1,185,528 | |
| Kentucky | 2,479,810 | 2,479,810 | |
| Louisiana | 2,296,841 | 2,296,841 | |
| Maine | 545,576 | 460,400 | 85,176 |
| Maryland | 1,292,045 | 1,073,653 | 218,392 |
| Massachusetts | 1,904,386 | 1,904,386 | |
| Michigan | 3,452,034 | 2,914,185 | 537,849 |
| Minnesota | 1,850,453 | 1,545,556 | 304,897 |
| Mississippi | 2,609,587 | 2,609,587 | |
| Missouri | 2,036,530 | 2,036,530 | |
| Montana | 360,725 | 320,381 | 40,344 |
| Nebraska | 840,678 | 740,188 | 100,490 |
| Nevada | 96,820 | 91,523 | 5,297 |
| New Hampshire | 287,792 | 287,792 | |
| New Jersey | 1,968,970 | 1,534,417 | 434,553 |
| New Mexico | 642,255 | 642,255 | |
| New York | 5,690,805 | 5,690,805 | |
| North Carolina | 3,746,686 | 3,746,686 | |
| North Dakota | 501,237 | 450,110 | 51,127 |
| Ohio | 3,968,509 | 3,351,702 | 616,807 |
| Oklahoma | 1,445,849 | 1,445,849 | |
| Oregon | 874,608 | 874,608 | |
| Pennsylvania | 4,953,078 | 3,951,789 | 1,001,289 |
| Puerto Rico | 3,423,186 | 3,423,186 | |
| Rhode Island | 360,791 | 360,791 | |
| South Carolina | 2,455,989 | 2,422,612 | 33,377 |
| South Dakota | 530,113 | 476,034 | 54,029 |
| Tennessee | 2,752,729 | 2,672,892 | 79,837 |
| Texas | 5,488,245 | 5,166,017 | 322,228 |
| Utah | 572,261 | 563,605 | 8,656 |
| Vermont | 226,259 | 226,259 | |
| Virginia | 2,279,712 | 2,174,693 | 105,019 |
| Virgin Islands | 38,516 | 38,516 | |
| Washington | 1,268,898 | 1,167,580 | 101,318 |
| West Virginia | 1,542,416 | 1,501,842 | 40,574 |
| Wisconsin | 1,967,313 | 1,495,689 | 471,624 |
| Wyoming | 171,325 | 171,325 | |
| Total | 93,600,000 | 88,351,591 | 5,248,409 |

(Secs. 2–11, 60 Stat. 230–233, as amended; 42 U. S. C. 1751–1760)

Dated: July 9, 1958.

[SEAL] ORIS V. WELLS,
*Administrator.*

[F. R. Doc. 58-5360; Filed, July 14, 1958; 8:48 a. m.]

## Chapter VII—Commodity Stabilization Service (Farm Marketing Quotas and Acreage Allotments), Department of Agriculture

### PART 718—DETERMINATION OF ACREAGE AND PERFORMANCE

#### MISCELLANEOUS AMENDMENTS

The amendments herein are issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U. S. C. 1301 et seq.), the Sugar Act of 1948, as amended (7 U. S. C. 1100 et seq.), the Agricultural Act of 1949, as amended (7 U. S. C. 1441 et seq.), and the Soil Bank Act (7 U. S. C. 1801 et seq.). These amendments include provisions relative to: (1) The definition of "cropland"; (2) the definition of "farm"; (3) the determination and recording of acreages for tobacco and tobacco acreage reserve; (4) variances authorized with respect to the determined acreage of tobacco; and (5) the publication of State ASC committee determinations pursuant to § 718.15 (a), as amended, for the States of Arizona, Arkansas, and Mississippi.

Since farmers are now engaged in 1958 farming operations, it is imperative that notice of these amendments be given as soon as possible. Accordingly, it is hereby found that compliance with the notice, public procedure, and effective date provisions of the Administrative Procedure Act (5 U. S. C. 1003) is impracticable and contrary to the public interest and that these amendments shall become effective upon publication in the FEDERAL REGISTER.

1. Section 718.2 (e) is amended to read as follows:

(e) "Cropland" means land which the county committee determines: (1) Was tilled in at least one of the five calendar years immediately preceding the crop year for which the determination is being made; or (2) was established in permanent vegetative cover within the five calendar years immediately preceding the crop year for which the determination is being made and was classified as cropland at the time of establishment; or (3) has been tilled but at the time of determination is in an established crop rotation pattern recognized in the community. Land planted to vineyards, orchards, or other trees which was classified as cropland at the time of planting shall retain the cropland classification only for the year of planting, except that portions of the land area within an orchard or vineyard not devoted to trees or vines shall be classified as cropland if such land area meets the requirements of the first sentence of this paragraph. Insofar as the acreage of cropland on the farm enters into the determination of the farm acreage allotment, the cropland acreage on the farm shall not be deemed to be decreased during the period of any contract entered into pursuant to the conservation reserve program under the Soil Bank Act or any agreement entered into under the Great Plains conservation program by reason of the establishment and maintenance of vegetative cover or water storage facilities or other soil, water, wildlife, or forest-conserving uses under such contract or agreement.

2. Section 718.2 (i) is amended to read as follows:

(i) "Farm";

(1) *Farms constituted under prior regulations.* The term "farm" means land which has been properly constituted and identified as a farm under regulations issued pursuant to the Agricultural Adjustment Act of 1938, as amended, or the Soil Bank Act, as amended, and such land shall continue to constitute a farm for all programs to which the regulations in this part may apply until reconstituted as required under subparagraph (4) of this paragraph.

(2) *Farms constituted for the first time or reconstituted hereafter.* With respect to the constitution and identification of land as a farm for the first time or the reconstitution of farms made hereafter, the term "farm" shall mean all adjoining or nearby and easily accessible farm, wood, or range land under the same ownership which is operated by one person and all additional farm, wood, or range land under different ownership operated by such person which the county committee determines is nearby and easily accessible, is approximately equally productive, and for the past two years has been operated by such person and which will be so operated during the current year, or which has been operated by such person for one year with proof satisfactory to the county committee that it will be operated by such person for at least two more years. Notwithstanding the foregoing definition of "farm" in this subparagraph:

(i) Fields and subdivisions of fields which are part of a farm shall remain a part of such farm when operated under a short term agreement by another operator, unless and until such fields or subdivisions of fields may be properly constituted as a separate farm or part of another farm under this section.

(ii) Land for which one or more landlord(s) refuse(s) to sign a conservation reserve contract and which is a part of a multiple-ownership farm may be constituted as a separate farm provided some eligible land in the balance of such multiple-ownership farm is covered by a conservation reserve contract.

(iii) Where part of a farm is owned by the Federal Government and the federal agency handling the leasing of such land has leased such land under a lease restricting the production of price-supported commodities in excess supply, the farm shall be reconstituted so that such government-owned land is a separate farm. Such government-owned land, or other land as may be acquired by the Federal Government and leased to producers under such restrictive leases, shall not be combined with privately-owned land or with other government-owned land not under restrictive lease.

(iv) Where a conservation reserve contract has been entered into under the conservation reserve program regulations (6 CFR Part 485) pursuant to which the entire eligible land on the farm is designated as conservation reserve, the farm as constituted at the time all the eligible land becomes so designated shall not be combined with other land (as long as all of the eligible land in the farm is under contract) unless the conservation reserve contract is modified to include in the conservation reserve all eligible land of such other land.

(3) *Location of farm for administrative purposes.* A farm shall be regarded as located in the county in which the principal dwelling is situated, or if there is no dwelling thereon, it shall be regarded as located in the county in which the major portion of the farm is located.

(4) *Required reconstitutions.* A reconstitution of a farm either by division or by combination shall be required whenever:

(i) A change has occurred in the operation of the land after the last constitution or reconstitution and as a result of such change the farm does not meet the requirements of the definition set forth in paragraph (i) (2) of this section; or

(ii) The farm was not properly constituted under the applicable regulations in effect at the time of the last constitution or reconstitution; or

(iii) A reconstitution is required to meet the provisions of paragraph (i) (2) (ii) or (iii) of this section.

3. Section 718.9 (a) is amended to read as follows:

(a) *Tobacco and tobacco acreage reserve.* Each field or subdivision computed will be recorded in acres and hundredths of acres, dropping all thousandths, except where the field or subdivision being measured is less than one-hundredth (0.01) acre in which case the computations shall be carried to five decimal places and the acreage recorded in acres and thousandths. The total farm acreage of the acreage reserve and each kind of tobacco shall be the sum of the field and subdivision acreages of each kind of tobacco and shall be recorded in acres and hundredths of acres.

4. Section 718.10, as amended, is further amended by the addition of a paragraph at the end thereof to read as follows:

In case of tobacco, if the acreage determined for the farm does not exceed the tobacco allotment by more than the smaller of (a) 2 percent of such allotment or (b) nine-hundredths (0.09) acre, the farm tobacco allotment shall be considered as the tobacco acreage for the farm for that year and the farm operator shall be so notified. If the determined tobacco acreage for the farm exceeds this amount, the tobacco acreage as actually determined shall be the tobacco acreage for the farm for all program purposes.

5. In § 718.15 (b), the Table of Sections Affected by Determinations of State Committees Pursuant to § 718.15 (a), is amended for the States of Arizona, Arkansas, and Mississippi to read as follows:

TABLE OF SECTIONS AFFECTED BY DETERMINATIONS OF STATE COMMITTEES PURSUANT TO § 718.15 (a)

| State | 718.2 (1) | 718.5 (f) | | 718.5 (g) | 718.5 (a) | 718.12 | | |
|---|---|---|---|---|---|---|---|---|
| | | (1) | (2) | | | (a-2) | (b-1) | (b-2) |
| Arizona | | 0.1 A. | 0.1 A. Minimum width 0.2 chain. | | 0.1 A. All destroyed acreage must be in one plot or be made up of entire field(s) plus 1 plot. The plot to be destroyed must be an area of regular shape with no more than 4 sides and with at least 1 side bordering on the edge of the field. If the area to be destroyed is a narrow strip extending out into the field from either a side or an end of the field, such strip must be at least four normal rows in width to qualify under the above requirements. | | | |
| Arkansas | | 0.5 A. Areas planted to rice on which the rice was destroyed in the construction of contour levees (dikes) shall not be eligible for deduction on the initial check of performance. | | | 0.5 A. Areas on which rice was completely destroyed in the construction of contour levees (dikes) may be considered as acreage disposed of to adjust to the farm allotment provided the area in each levee (dike) meets the 0.5 A. minimum area requirement. | | | |
| Mississippi | | 0.1 A. Minimum width 0.2 chain. | 0.1 A. Dikes in rice fields not planted to rice and irrigation dikes in cotton fields shall be eligible in the same manner as terraces provided they are 0.1 chain in width and the total area in any one field is not less than 0.1 A. | | Minimum area in a single plot 0.5 A. except (1) when the total to be destroyed is 0.5 A. or less, the entire acreage destroyed must be in one plot; (2) when the acreage to be destroyed is more than 0.5 A., only one plot destroyed may be less than 0.5 A.; (3) all of any field or subdivision planted to cotton may be disposed of to come within the allotment regardless of size or number; (4) the area included in cotton and rice irrigation dikes where crops are destroyed may be combined and deducted provided: (a) the dikes are not less than 0.1 chain in width, and (2) the combined area in dikes for any one field is not less than 0.1 A. Minimum width for (1) and (2) above 0.2 chain. | | | |

(Secs. 374, 375, 52 Stat. 65, as amended, 66, as amended, sec. 403, 61 Stat. 932, sec. 401, 63 Stat. 1054, as amended, sec. 124, 70 Stat. 198; 7 U. S. C. 1374, 1375, 1421, 1153, 1812)

Done at Washington, D. C., this 9th day of July 1958.

[SEAL] TRUE D. MORSE,
*Acting Secretary.*

[F. R. Doc. 58-5369; Filed, July 14, 1958; 8:50 a. m.]

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[1023—Allotments—(Cigar-Binder and Cigar-Filler and Binder—59-1)]

## PART 723—CIGAR-FILLER TOBACCO, CIGAR-BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

### MARKETING QUOTA REGULATIONS, 1959-60 MARKETING YEAR

GENERAL



AUTHORITY: §§ 723.1011 to 723.1028 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 363, 52 Stat. 38, 47, as amended, 63, 69 Stat. 684; 7 U. S. C. 1301, 1313, 1363.

GENERAL

§ 723.1011 *Basis and purpose.* The regulations contained in §§ 723.1011 to 723.1028 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of 1959 farm acreage allotments and normal yields for cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco. The purpose of the regulations in §§ 723.1011 to 723.1028 is to provide the procedure for allocating, on an acreage basis, the national marketing quota for cigar-binder (types 51 and 52) tobacco and cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco for the 1959-60 marketing year among farms and for determining normal yields. Prior to preparing the regulations in §§ 723.1011 to 723.1028, public notice (23 F. R. 2429) was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to the regulations in §§ 723.1011 to 723.1028 which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 723.1012 *Definitions.* As used in §§ 723.1011 to 723.1028, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) The definitions of the following terms as set forth in Part 719 of this chapter shall apply in §§ 723.1011 to 723.1028: "combination", "community committee", "county committee", "State committee", "county", "county office manager", "cropland", "Department", "Deputy Administrator", "division", "farm", "operator", "person", "producer", "reconstitution", "Secretary", "Soil Bank Contract", "State administrative officer", and "subdivision".

(b) "Director" means the Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(c) "New farm" means a farm on which tobacco will be harvested in 1959 for the first time since 1953. If in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is a new farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage with the meaning of "harvested acreage" as provided in paragraph (c) of § 723.1016.

(d) "Old farm" means a farm on which tobacco was harvested in one or more of the five years 1954 through 1958. If in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is an old farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 723.1016.

(e) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1958 into the total of the 1958 tobacco acreage allotment for such old farms: *Provided,* That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall be used in determining the acreage indicated by cropland.

(f) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(g) "Tobacco" means:

(1) Type 42 tobacco, that type of cigar-leaf tobacco commonly known as Gebhardt, Ohio Seedleaf, or Ohio Broadleaf, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(2) Type 43 tobacco, that type of cigar-leaf tobacco commonly known as Zimmer, Spanish, or Zimmer Spanish, produced principally in the Miami Valley section of Ohio and extending into Indiana;

(3) Type 44 tobacco, that type of cigar-leaf tobacco commonly known as Dutch, Shoestring Dutch, or Little Dutch, produced principally in the Miami Valley section of Ohio;

(4) Type 51 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Broadleaf or Connecticut Broadleaf, produced primarily in the Valley area of Connecticut;

(5) Type 52 tobacco, that type of cigar-leaf tobacco commonly known as Connecticut Valley Havana Seed, or Havana Seed of Connecticut and Massachusetts, produced primarily in the Connecticut Valley area of Massachusetts and Connecticut;

(6) Type 53 tobacco, that type of cigar-leaf tobacco commonly known as York State Tobacco, or Havana Seed of New York and Pennsylvania, produced principally in the Big Flats section of New York, extending into Pennsylvania and in the Onondaga section of New York State;

(7) Type 54 tobacco, that type of cigar-leaf tobacco commonly known as southern Wisconsin cigar-leaf or southern Wisconsin binder type, produced principally south and east of the Wisconsin River; or

(8) Type 55 tobacco, that type of cigar-leaf tobacco commonly known as Northern Wisconsin cigar-leaf or Northern Wisconsin binder type, produced principally north and west of the Wisconsin River, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or all such types of tobacco as indicated by the context. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco. The term "tobacco" shall include all leaves harvested, including trash.

§ 723.1013 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-hundredth acre. The rule of fractions will be to round upward fractions of more than five-thousandths and to round downward fractions of five-thousandths or less (i. e., 0.0050 would be 0.00 and 0.0051 would be 0.01).

§ 723.1014 *Instructions and forms.* The director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions for internal management as are necessary for carrying out §§ 723.1011 to 723.1028. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator for Production Adjustment, Commodity Stabilization Service.

§ 723.1015 *Applicabilty of §§ 723.1011 to 723.1028.* Sections 723.1011 to 723.1028 govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1959.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 723.1016 *Determination of 1959 preliminary acreage allotments for old farms.* (a) The 1959 preliminary acreage allotment for an old tobacco farm shall be the 1958 farm acreage allotment established for such farm, except that where a quantity of tobacco produced on a farm prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty has been reduced because the 1958 acreage allotment for such farm was not fully harvested, and the allotments for such farm for the three years 1956–58 were underharvested to the extent provided in paragraph (c) of this section, the 1959 preliminary acreage allotment for such farm shall be determined subject to the provisions of paragraph (c) of this section, if applicable.

(b) For the purpose of determining, under the provisions of paragraph (a) of this section, a 1959 preliminary acreage allotment for an old farm equal to the 1958 farm acreage allotment for such farm, the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment determined for such farm prior to reduction, if any, because of a violation of the tobacco marketing quota regulations for a prior marketing year; and for the purpose of determining a 1959 preliminary acreage allotment for an old farm under the provisions of paragraph (c) of this section, the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment established for such farm after any such reduction.

(c) The provisions of this paragraph shall be applied, if applicable, in the case of an old farm, only where a quantity of tobacco produced thereon prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty was reduced because the 1958 allotment was not fully harvested and acreage allotments were underharvested as provided in this paragraph. If the harvested acreage (as that term is explained in subparagraphs (1), (2) and (3) of this paragraph) of cigar-binder or cigar-filler and binder tobacco on such old farm in each of the three years 1956–58 was less than 75 percent of the farm acreage allotment for each of such respective years, the 1959 preliminary allotment for such farm shall be the larger of the largest acreage of tobacco harvested on the farm in any one of such three years, or the average acreage of tobacco harvested on the farm in the five years 1954–58: *Provided,* That any such 1959 preliminary allotment shall not exceed the 1958 farm acreage allotment or be less than 0.01 acre.

(1) For the purpose of this paragraph, the 1956 harvested acreage shall have the meaning and include the acreage as provided in § 723.816 (b) (tobacco marketing quota regulations for the 1957–58 marketing year (21 F. R. 7202)); the 1957 harvested acreage shall have the meaning and include the acreage as provided in § 723.916 (c) (tobacco marketing quota regulations for the 1958–59 marketing year (22 F. R. 4351, 8127; 23 F. R. 135, 638)); and the 1958 harvested acreage shall include the acreage on the farm applicable to the kind of tobacco involved which is determined as provided in subparagraphs (2) and (3) of this paragraph to be devoted or diverted in 1958 to participation in the acreage reserve program or conservation reserve program.

(2) The tobacco acreage devoted in 1958 to the acreage reserve program shall be the smallest of (i) the acreage reserve entered on the agreement, (ii) the measured acreage reserve, or (iii) the 1958 allotment minus the actual acreage devoted in 1958 to tobacco.

(3) The acreage diverted from allotment crops in 1958 to the conservation reserve program shall be the smallest of (i) the acreage determined to be in the conservation reserve at the regular rate, (ii) the reduction in soil bank base crops from the farm's soil bank base, or (iii) the amount by which the sum of all acreage allotments for the farm for crops for which there was a reduction in the quantity of excess commodity stored pursuant to the regulations to postpone or avoid payment of penalty because the 1958 allotments were not fully planted, or as to tobacco was not fully harvested, exceeds the sum of the acreage actually devoted to such allotment crops and the acreage reserve, if any, credited under subparagraph (2) of this paragraph to such crops. The crops involved will share pro rata in the acreage so determined on the basis of the respective reductions made in such crops. Such respective reductions will be the amount by which the 1958 allotment exceeds the sum of the acreage actually devoted to the crop and the acreage devoted to the acreage reserve.

(d) Notwithstanding the foregoing provisions of this section, no 1959 preliminary allotment or 1959 farm tobacco acreage allotment shall be determined for any farm that the county and State committee determine has been retired from agricultural production: *Provided,* That this paragraph shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production, or for a farm for which an acreage allotment may be determined under the provisions of § 723.1020.

§ 723.1017 *1959 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 723.1016 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms, correction of errors, and for allotments for overlooked old farms pursuant to § 723.1018 shall not exceed the State acreage allotment.

§ 723.1018 *Adjustment of acreage allotments for old farms, correction of errors, and allotments for overlooked old farms.* Notwithstanding the limitations contained in § 723.1016, the individual 1959 farm acreage allotment heretofore established for an old farm may be increased if the county committee justifies such increase to the satisfaction of the State committee or its representative as being necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The acreage available in the State for increasing allotments as above described under this section, correction of errors, and providing acreage allotments for overlooked farms shall not exceed in the case of cigar-binder (types 51 and 52) tobacco one percent of the total acreage allotted to all farms in the State for the production of such kind of tobacco for the 1958–59 marketing year, and shall not exceed in the case of cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco 4 percent of the total acreage allotted to all farms in the State for the production of such kind of tobacco for the 1958–59 marketing year.

§ 723.1019 *Reductions of acreage allotment for violation of the marketing quota regulations for a prior marketing year.* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm for the 1958–59 or a prior marketing year which in fact was produced on a different farm, the 1959 acreage allotments established for both such farms shall be reduced, as provided in this section, except that such reduction for any such farm shall not be made if the county and State committees determine that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator or any producer on the farm shall have furnished complete and accurate proof of the disposition of all tobacco produced on the farm in 1958 or a prior year and in the event of failure to furnish such proof, the 1959 acreage allotment for the farm shall be reduced as provided in this section.

(c) If any producer has filed, or aided or acquiesced in the filing of, any false report with respect to the acreage of tobacco grown on the farm in 1958 or a prior year, the 1959 acreage allotment for the farm shall be reduced as provided in this section.

(d) If in the calendar year 1958 more than one crop of tobacco was grown from (1) the same tobacco plants, or (2 different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested. In case the allotment is transferred through a State pool to another farm under § 723.1020 before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotment first established for the farm to which it is so transferred shall be reduced as described above in this paragraph.

(e) Any reduction made with respect to a farm's 1959 acreage allotment for any of the reasons heretofore provided in this section shall be made no later than May 1, 1959. If the reduction cannot be made by such dates, the reduction shall be made with respect to the acreage allotment next established for the farm but no later than by a corresponding date to be specified in a subsequent year: *Provided, however,* That no reduction shall be made under this section in the 1959 acreage allotment for any farm for a violation described in paragraph (a), (b), (c), or (d) of this section if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

(f) The amount of reduction in the 1959 allotment for a violation described in paragraph (a), (b), or (c) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the amount of such tobacco involved in the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The quantity of tobacco determined by the county committee to have been falsely identified, or produced on acreage falsely omitted from an acreage report as filed, or for which the county committee determines that proof of disposition has not been furnished, shall be considered as the amount of tobacco involved in the violation. If the actual quantity of tobacco falsely identified, or produced on acreage falsely omitted from an acreage report, or for which proof of disposition has not been furnished is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If the actual quantity of tobacco produced on acreage falsely omitted from an acreage report or for which proof of disposition has not been furnished is not known, the county committee shall determine such quantity in the following manner, and if the actual total production of tobacco on the farm is not known, the county committee shall determine such total production and the farm marketing quota in the following manner. The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided,* That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affeeting the production of tobacco are similar. The yield per acre and the total production of tobacco for the farm as so determined by the county committee shall be deemed to be the actual yield per acre and the actual total production of tobacco for the farm. The actual yield per acre of tobacco on the farm as so determined by the county committee multiplied by the farm acreage allotment shall be deemed to be the actual production of the acreage allotment and the farm marketing quota. Where the actual quantity of tobacco for which proof of disposition has not been furnished is not known, such quantity shall be determined by the county committee to be the quantity of tobacco

remaining after deducting from the total production of tobacco on the farm determined as aforesaid, the quantity of tobacco for which proof of disposition has been furnished. Where the actual quantity of tobacco produced on acreage falsely omitted from an acreage report is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid by the acreage falsely omitted from the acreage report as filed.

(g) If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required under paragraph (a), (b), (c) or (d) of this section.

(h) If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the allotments for the divided farms required to be reduced under paragraph (a) (b), (c) or (d) of this section.

(i) Producers of tobacco in the 1958–59 marketing year shall submit proof of disposition of tobacco and records and reports relative to the provisions of this section as set forth in § 723.952 of this part (Marketing Quota Regulations, 1958–59 marketing year, 1026 (Cigar-Binder and Cigar-Filler and Binder—58)–1).

§ 723.1020 *Reallocation of allotments released from farms removed from agricultural production or shifted from production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco to production of shade-grown cigar-leaf (type 61) wrapper tobacco.* (a) The allotment determined or which would have been determined for any land which is removed from agricultural production for any purpose because of acquisition by any Federal, State, or other agency having a right of eminent domain shall be placed in a State pool and shall be available to the State committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by such agencies. Upon application to the county committee, within five years from the date of such acquisition of the farm, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm so acquired: *Provided,* That such allotment shall not exceed 20 percent of the acreage of cropland on the farm. The provisions of this paragraph shall not be applicable so long as (1) there is any marketing quota penalty due and unpaid with respect to the marketing of tobacco from the farm acquired by the Federal, State, or other agency; (2) any tobacco produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next to be established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of tobacco produced on or marketed from such farm, or due to a false acreage report.

(b) The allotment determined or which would have been determined for any land which has been used for the production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco but which will be used in 1959 for the production of cigar wrapper (type 61) tobacco shall be placed in a State pool and shall be available to the State committee to establish allotments pursuant to § 723.1026 (b).

§ 723.1021 *Farms divided or combined.* Allotments for farms reconstituted for 1959 shall be determined in accordance with Part 719 of this chapter.

§ 723.1022 *Determination of normal yields for old farms.* The county committee will determine a normal yield for each farm for which a 1959 tobacco acreage allotment was established by first obtaining the average of the two highest yields for such farms in the three years 1951, 1953, and 1954, or if tobacco was grown in less than two of such years the yield for the one year will be used in lieu of the average yield of two years. If in any case the preliminary yield so obtained exceeds 125 percent or is less than 80 percent of the county check yield (to be ascertained as hereinafter provided), such preliminary yield shall be adjusted to the applicable percentage, and any preliminary yield may be also adjusted for drought, flood or other abnormal conditions affecting the yield, but the yield so adjusted shall not exceed 125 percent or be less than 80 percent of the county check yield. If the total production extension for all farms in the county in 1956 obtained by multiplying the 1956 acreage allotment for each farm by the preliminary yield so computed for such farm varies more than one percent from the total production extension obtained by multiplying the county check yield by the total of all allotted tobacco acreage in the county for 1956, the preliminary yield for each farm will then be factored to the extent required to eliminate any variance. Subject to the approval of the State committee, the yields may be further factored to provide a yield for each farm in the county that is not more than 125 percent or less than 80 percent of the county check yield. The yield for the farm thus determined shall be the normal yield for the farm: *Provided,* That if the farm has been reconstituted since 1950, the normal yield for such farm shall be determined by the county committee by appraisal taking into consideration available yield data for the land involved and yields established as heretofore provided in this section for similar farms in the community. The State committees or their representatives are authorized to make changes or require changes to be made in farm preliminary normal yields per acre which are necessary to result in a normal yield that is determined in accordance with this section, whether or not a producer questions or appeals the normal yield as determined for the farm to the State committee; however, such changes shall not be permitted to result in a weighted yield per acre for all farms in the county that is in excess of 102 percent of the county check yield. The county check yield shall be determined by the Deputy Administrator on the basis of the average of the two highest yields in the county in the three years 1951, 1953, and 1954, adjusted where necessary so as to conform with and, except for factoring, to not exceed 125 percent or be less than 80 percent of the State check yield; such State check yield to be determined by the Deputy Administrator on the basis of the average of the two highest yields in the State in the three years 1951, 1953, and 1954, but not to exceed 125 percent or be less than 80 percent of the average of the two high year averages of all States which grow the type of tobacco indicated in each of the following groups: (a) Types 51–52, (b) Types 42–44, and (c) Types 54 and 55.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 723.1023 *Determination of acreage allotments for new farms.* (a) The acreage allotment, other than an allotment made under § 723.1020, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed 75 percent of the average of acreage allotments established for two or more but not to exceed five old farms in the community which are similar with respect to land, labor and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further.* That if the acreage planted to tobacco on a new tobacco farm is less than the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the acreage planted to tobacco on the farm.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in the kind of tobacco for which an allotment is requested and such experience shall consist of the preparation of the plant bed and extend through preparation of the tobacco for market: *Provided,* That production of tobacco on a farm in 1955, 1956, 1957, or 1958 for which in accordance with applicable law and regulations no 1955, 1956, 1957, or 1958 tobacco acreage allotment respectively was determined shall not be deemed such experience for any producer.

(2) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a cigar-binder (types 51 and 52) tobacco, or cigar-filler and binder (types 42, 43,

44, 53, 54, and 55) tobacco acreage allotment is established for the 1959–60 marketing year.

(3) The farm or any portion thereof shall not have been a part of another farm during any of the five years 1954–58 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1953 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1954–58 and at time of division of the farm contained cropland but received no part of the allotment due (a) to division of the allotment on a contribution basis, or (b) to agreement and approval of all interested parties as provided in regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One percent of the 1959 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quotas into State acreage allotments.

§ 723.1024 *Time for filing application.* An application for a new farm allotment shall be filed with the ASC county office not later than March 11, 1959, unless the farm operator was discharged from the armed services subsequent to December 31, 1958, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 723.1025 *Determination of normal yields for new farms.* The normal yield for a new farm shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 723.1022 for similar farms in the community.

MISCELLANEOUS

§ 723.1026 *Determination of acreage allotments and normal yields for farms returned to agricultural production or shifted from production of shade-grown cigar-leaf (type 61) wrapper tobacco to production of cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco.* (a) Notwithstanding the foregoing provisions of §§ 723.1011 to 723.1025, the acreage allotment for any farm which was acquired by any Federal, State, or other agency having the right of eminent domain for any purpose and which is returned to agricultural production in 1959 or which was returned to agricultural production in 1958 too late for the 1958 allotment to be established, shall be determined by one of the following methods:

(1) If the land is acquired by the original owner within five years from the date of acquisition by a Federal, State or other agency having the right of eminent domain, any part of the acreage allotment which was or could have been established for such farm prior to its retirement from agricultural production which remains in the State pool (adjusted to reflect the uniform increases and decreases in comparable old farm allotments since the farm was acquired) may be established as the 1959 allotment for such farm by transfer from the pool, and if any part of the allotment for such land was transferred by the original owner through the State pool to another farm now owned by him, such owner may elect to transfer all or any part of such allotment (as adjusted) to the farm which is returned to agricultural production.

(2) If the land is acquired by a person other than the original owner, or if all of the allotment was transferred through the State pools to another farm and the original owner does not now own the farm to which the allotment was transferred, or if more than five years have elapsed since the date of acquisition by a Federal, State, or other agency having the right of eminent domain, the farm returned to agricultural production shall be regarded as a new farm.

(b) Notwithstanding the foregoing provisions of §§ 723.1011 to 723.1025, an allotment may be established by the county and State committees for a farm which in 1958 was producing shade-grown cigar-leaf (type 61) wrapper tobacco but on which cigar-binder (types 51 and 52) tobacco or cigar-filler and binder (types 42, 43, 44, 53, 54, and 55) tobacco will be produced in 1959. The acreage used for such purpose will be limited to that placed in the State pool pursuant to § 723.1020 (b). Any allotment established pursuant to this paragraph shall, to the extent of available acreage in such pool, be determined by the county and State committees so as to be fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. Allotments established pursuant to this paragraph are eligible for consideration for adjustments under § 723.1018.

(c) The normal yield for any such farm under paragraph (a) or (b) of this section shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 723.1022 for similar farms in the community.

§ 723.1027 *Approval of determinations made under §§ 723.1011 to 723.1026, and notices of farm acreage allotments.* (a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by or on behalf of the State committee and the State committee may revise or require revision of any determinations made under §§ 723.1011 to 723.1026. All acreage allotments and yields shall be approved by or on behalf of the State committee and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by or on behalf of the State committee.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county office. Insofar as practical all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice, containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) a violation of the marketing quota regulations for a prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, no notice of such allotment shall be mailed until the proper allotment is determined for the farm by the county committee with the approval of the State committee: *Provided,* That the notice of allotment for any farm shall, insofar as practicable, be mailed no later than May 1, 1959.

(d) If the county committee determines with the approval of the State administrative officer that the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and the county committee also determines that the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year, provided the acreage of tobacco harvested from the farm is not in excess of the acreage shown on the erroneous notice. In the event the acreage of tobacco harvested exceeds the farm acre-

age allotment shown on the erroneous notice, the acreage allotment for the farm as correctly determined and shown on a revised notice of farm acreage allotment and marketing quota shall be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year.

§ 723.1028 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm may, within fifteen days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the ASC county office to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in the regulations issued by the Secretary (Part 711 of this chapter) which are available at ASC county office.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 9th day of July 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
*Acting Secretary.*

[F. R. Doc. 58-5364; Filed, July 14, 1958; 8:49 a. m.]

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[1023—Allotments—Cigar-Filler (Type 41) Tobacco—59–1]

## PART 723—CIGAR-FILLER TOBACCO, CIGAR-BINDER TOBACCO, AND CIGAR-FILLER AND BINDER TOBACCO

### CIGAR-FILLER (TYPE 41) TOBACCO MARKETING QUOTA REGULATIONS, 1959–60 MARKETING YEAR

GENERAL



AUTHORITY: §§ 723.871 to 723.888 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 363, 52 Stat. 38, as amended, 47, as amended, 63, 69 Stat. 684; 7 U. S. C. 1301, 1313, 1363.

GENERAL

§ 723.871 *Basis and purpose.* The regulations contained in §§ 723.871 to 723.888 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of 1959 farm acreage allotments and normal yields for cigar-filler tobacco. The purpose of the regulations in §§ 723.871 to 723.888 is to provide the procedure for allocating, on an acreage basis, the State marketing quota for cigar-filler tobacco for the 1959–60 marketing year among farms and for determining normal yields. Prior to preparing the regulations in §§ 723.871 to 723.888, public notice (23 F. R. 2429) was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to the regulations in §§ 723.871 to 723.888, which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 723.872 *Definitions.* As used in §§ 723.871 to 723.888, and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) The definitions of the following terms as set forth in Part 719 of this chapter shall apply in §§ 723.871 to 723.888: "Combination", "community committee", "county committee", "State committee", "county", "county office manager", "cropland", "Department", "Deputy Administrator", "division", "farm", "operator", "person", "producer", "reconstitution", "Secretary", "soil bank contract", "State administrative officer", and "subdivision".

(b) "Director" means the Director, or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(c) "New farm" means a farm on which tobacco will be harvested in 1959 for the first time since 1953. If in accordance with applicable law and regulations, no 1955 or 1956 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955 or 1956, respectively, shall not be considered as harvested acreage in determining whether the farm is a new farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in § 723.876.

(d) "Old farm" means a farm on which tobacco was harvested in one or more of the five years 1954 through 1958. If in accordance with applicable law and regulations, no 1955 or 1956 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955 or 1956, respectively, shall not be considered as harvested acreage in determining whether the farm is an old farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in § 723.876.

(e) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1958 into the total of the 1958 tobacco acreage allotment for such old farms: *Provided*, That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall be used in determining the acreage indicated by cropland.

(f) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(g) "Tobacco" means cigar-filler tobacco, type 41, that type of cigar-leaf tobacco commonly known as Pennsylvania Seedleaf, Pennsylvania Broadleaf, Pennsylvania filler type, or Lancaster and York County filler type, and produced principally in Lancaster County, Pennsylvania, and the adjoining counties, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco. The term "tobacco" shall include all leaves harvested including trash.

§ 723.873 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-hundredth acre. The rule of fractions will be to round upward fractions of more than five-thousandths and to round downward fractions of five-thousandths or less (i. e., 0.0050 would be 0.00 and 0.0051 would be 0.01).

§ 723.874 *Instructions and forms.* The Director, Tobacco Division, Commodity Stabilization Service, shall cause to be prepared and issued such forms as are necessary and shall cause to be prepared such instructions for internal

management as are necessary for carrying out §§ 723.871 to 723.888. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator for Production Adjustment of the Commodity Stabilization Service.

§ 723.875 *Applicability of §§ 723.871 to 723.888.* Sections 723.871 to 723.888 shall govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1959. The applicability of §§ 723.871 to 723.888 is contingent upon the proclamation of national marketing quotas for cigar-filler tobacco for the three marketing years beginning October 1, 1959, by the Secretary of Agriculture, and the approval thereof by growers voting in a referendum pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended.

HARVESTED ACREAGE, ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 723.876 *Determination of harvested tobacco acreage for old farms.* The county committee shall determine from the best available data the acreage of tobacco harvested on each old tobacco farm for each of the years 1954–58. Data for making such determinations shall be taken from county office records, producers' sales records, producers' reports, and estimates of other persons having knowledge of tobacco produced on the farm. In determining the harvested acreage for any year, due allowance shall be made for drought, flood, hail, other abnormal weather conditions and plant bed and other diseases. The harvested acreage for 1955 and 1956 on a farm which is in excess of the tobacco acreage allotment for such farm shall not be considered as harvested acreage. Also, the 1956 harvested acreage shall be considered to equal the 1956 allotment if the farm owner or operator notified the county committee not later than August 1, 1956, that he desired to preserve such allotment. If a conservation reserve contract was in effect on the farm in 1956, the harvested acreage for 1956 shall include the acreage by which the 1956 allotment was underharvested, not to exceed the acreage in the conservation reserve contract.

§ 723.877 *Determination of 1959 preliminary acreage allotments for old farms.* (a) The preliminary acreage allotment for an old farm shall be the largest of the following:

(1) The average acreage of tobacco harvested on the farm in the five years 1954–58, except that if the five-year average is in excess of the three-year, 1956–58 average, it shall be reduced to the larger of such three-year average or 50 percent of the five-year average;

(2) 80 percent of the average acreage of tobacco harvested on the farm in the past three years 1956–58, or

(3) 45 percent of the acreage of tobacco harvested on the farm in 1958: *Provided,* That the preliminary acreage allotment for any old farm shall not be less than 0.01 acre.

§ 723.878 *1959 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 723.877 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms pursuant to § 723.879 shall not exceed the State acreage allotment: *Provided,* That if the acreage allotment so determined for any farm (except farms operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced) is less than that acreage which, with the normal yield for the farm, would produce 2,400 pounds of tobacco, then such acreage allotment shall be increased to the smaller of (a) 120 percent thereof, or (b) that acreage which, with the normal yield for the farm, would produce 2,400 pounds of tobacco: *And provided further,* That if in the calendar year 1958 more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the 1959 acreage allotment established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested; in case the allotment is transferred through a State pool to another farm under § 723.880 before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotment first established for the farm to which it is so transferred shall be reduced as provided herein, or in case the farm is divided or combined with other land before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotments for the divided farms or the allotment for the combined farm shall be reduced as provided herein.

§ 723.879 *Adjustment of acreage allotments for old farms.* Notwithstanding the limitations contained in § 723.878, the farm acreage allotment for an old farm may be increased if the community and county committees find (with approval of the State committee) that such increase is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail and other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The acreage available for increasing allotments under this section shall not exceed two percent of the 1959 State acreage allotment.

§ 723.880 *Reallocation of allotments released from farms removed from agricultural production.* The allotment determined or which would have been determined for any land which is removed from agricultural production for any purpose because of acquisition by any Federal, State, or other agency having a right of eminent domain shall be placed in the State pool and shall be available to the State committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by such agencies. In any year during the five years 1954–58 in which tobacco was not harvested from the farm due to such acquisition the harvested acreage shall be considered to be equal to the sum of the acreages of tobacco harvested from the farm during the five years 1954–58 divided by the number of years tobacco was harvested from the farm in 1954–58. Upon application to the county committee within five years from the date of such acquisition of the farm, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm so acquired: *Provided,* That such allotment shall not exceed 20 percent of the acreage of cropland on the farm.

§ 723.881 *Farms divided or combined.* Allotments for farms reconstituted for 1959 shall be determined in accordance with Part 719 of this chapter.

§ 723.882 *Determination of normal yields.* The normal yield for any old farm shall be that yield which the county committee determines is normal for the farm taking into consideration (a) the yields obtained on the farm during the years 1946–57 for which data are available; (b) the soil and other physical factors affecting the production of tobacco on the farm; and (c) the yields obtained on other farms in the locality which are similar with respect to such factors.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 723.883 *Determination of acreage allotments for new farms.* (a) The acreage allotment, other than an allotment made under § 723.880, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm, taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed 75 percent of the average of the allotments established for two or more but not more than five old farms in the community which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further,* That if the acreage planted to tobacco on a new tobacco farm is less than the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the acreage planted to tobacco on the farm.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in cigar-filler (type 41) tobacco and such experience shall consist of the preparation of the plant bed and extend through preparation of the tobacco for market: *Provided,* That production of tobacco on a farm in 1955 or 1956 for which in accordance with applicable law and regulations no 1955 or 1956 tobacco acreage allotment, respectively, was determined shall not be deemed such experience for any producer.

(2) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a cigar-filler (type 41) tobacco acreage allotment is established for the 1959–60 marketing year.

(3) The farm or any portion thereof shall not have been a part of another farm during any of the years 1954–56 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1953 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1954–56 and at time of division of the farm contained cropland but received no part of the allotment due (*a*) to division of the allotment on a contribution basis, or (*b*) to agreement and approval of all interested parties as provided in regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One percent of the 1959 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quotas into State acreage allotments.

§ 723.884 *Time for filing application.* An application for a new farm allotment shall be filed with the ASC county office not later than March 11, 1959, unless the farm operator was discharged from the armed services subsequent to December 31, 1958, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 723.885 *Determination of normal yields.* The normal yield for a new farm shall be that yield per acre which the county committee determines is normal for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

MISCELLANEOUS

§ 723.886 *Determination of acreage allotments and normal yields for farms returned to agricultural production.* (a) Notwithstanding the foregoing provisions of §§ 723.871 to 723.885, the preliminary acreage allotment for any farm which was acquired by any Federal, State, or other agency having the right of eminent domain for any purpose and which is returned, within five years from the date of such acquisition, to agricultural production shall be determined as provided in § 723.880. If no tobacco was harvested on the farm during the five years 1954–58 the farm returned to agricultural production shall be regarded as a new farm.

(b) The normal yield for any such farm shall be that yield per acre which the county committee determines is reasonable for the farm as compared with yields for other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar.

§ 723.887 *Approval of determinations made under §§ 723.871 to 723.886.* (a) All allotments and yields shall be reviewed by or on behalf of the State committee and the State committee may revise or require revision of any determinations made under §§ 723.871 to 723.886. All acreage allotments and yields shall be approved by or on behalf of the State committee, and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by or on behalf of the State committee.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county office. Insofar as practical all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice, containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) removal of the farm from agricultural production, (2) division of the farm, or (3) combination of the farm, no notice of such allotment shall be mailed until the proper allotment is determined for the farm by the county committee with the approval of the State committee: *Provided,* That the notice of allotment for any farm shall, insofar as practicable, be mailed no later than May 1, 1959.

(d) If the county committee determines with the approval of the State administrative officer that the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and the county committee also determines that the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year, provided the acreage of tobacco harvested from the farm is not in excess of the acreage shown on the erroneous notice. In the event the acreage of tobacco harvested exceeds the farm acreage allotment shown on the erroneous notice, the acreage allotment for the farm as correctly determined and shown on a revised notice of farm acreage allotment and marketing quota shall be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year.

§ 723.888 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm, may, within fifteen days after mailing of the official notice of the farm acreage allotment and marketing quota, file application with the ASC county office to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in the regulations issued by the Secretary (Part 711 of this chapter) which are available at the ASC county office.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 9th day of July 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
*Acting Secretary.*

[F. R. Doc. 58-5365; Filed, July 14, 1958; 8:49 a. m.]

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[1023—Allotments—(Burley, Flue, Fire, Air, Sun—59)-1]

## PART 725—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, AND VIRGINIA SUN-CURED TOBACCO

### MARKETING QUOTA REGULATIONS, 1959-60 MARKETING YEAR

GENERAL

Sec.
725.1011 Basis and purpose.
725.1012 Definitions.
725.1013 Extent of calculations and rule of fractions.
725.1014 Instructions and forms.

Sec.



AUTHORITY: §§ 725.1011 to 725.1028 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 363, 52 Stat. 38, as amended, 47, as amended, 63, as amended, 66 Stat. 597, as amended, Pub. Law No. 85-92; 7 U. S. C. 1301, 1313, 1315, 1363.

GENERAL

§ 725.1011 *Basis and purpose.* (a) The regulations contained in §§ 725.1011 to 725.1028 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of 1959 farm acreage allotments and normal yields for burley, flue-cured, fire-cured, dark air-cured, and Virginia sun-cured tobacco. The purpose of the regulations in §§ 725.1011 to 725.1028 is to provide the procedure for allocating, on an acreage basis, the national marketing quota for burley flue-cured, fire-cured, dark air-cured, and Virginia sun-cured tobacco for the 1959-60 marketing year among farms and for determining normal yields. Prior to preparing the regulations in §§ 725.1011 to 725.1028, public notice (23 F. R. 2429) was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to the regulations in §§ 725.1011 to 725.1028, which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

(b) In order that State and county committees may prepare and mail notices of farm acreage allotments for burley, flue-cured, and Virginia sun-cured tobacco as early as possible prior to the referenda to be held with respect to such kinds of tobacco, it is essential that the regulations in §§ 725.1011 to 725.1028, inclusive, be made effective as soon as possible. Accordingly, it is hereby determined and found that compliance with the 30-day effective date provisions of the Administrative Procedure Act is impracticable and contrary to the public interest, and such regulations shall be effective upon filing of this document with the Director, Division of the Federal Register.

§ 725.1012 *Definitions.* As used in §§ 725.1011 to 725.1028, and in all instructions, forms, and documents in connection therewith the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) The definitions of the following terms as set forth in Part 719 of this chapter shall apply in §§ 725.1011 to 725.1028: "combination", "community committee", "county committee", "State committee", "county", "county office manager", "cropland", "Department", "Deputy Administrator", "division", "farm", "operator", "person", "producer", "reconstitution", "Secretary", "Soil Bank Contract", "State administrative officer", and "subdivision".

(b) "Director" means the Director, or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(c) "New farm" means a farm on which tobacco will be harvested in 1959 for the first time since 1953. If in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is a new farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 725.1016.

(d) "Old farm" means a farm on which tobacco was harvested in one or more of the five years 1954 through 1958. If in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is an old farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 725.1016.

(e) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1958 into the total of the 1958 tobacco acreage allotment for such old farms: *Provided,* That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall be used in determining the acreage indicated by cropland.

(f) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(g) "Tobacco" means:

(1) Burley tobacco type 31; flue-cured tobacco types 11, 12, 13, and 14; fire-cured tobacco type 21, fire-cured tobacco types 22, 23, and 24; dark air-cured tobacco types 35 and 36; or Virginia sun-cured tobacco type 37, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture, or all, as indicated by the context.

(2) Any tobacco that has the same characteristics, and corresponding qualities, colors, and lengths as either burley, flue-cured, fire-cured type 21, fire-cured types 22, 23 and 24, dark air-cured or Virginia sun-cured tobacco shall be considered respectively either burley, flue-cured, fire-cured type 21, fire-cured types 22, 23, and 24, dark air-cured or Virginia sun-cured tobacco regardless of any factors of historical or geographical nature which cannot be determined by examination of the tobacco.

§ 725.1013 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-hundredth acre. The rule of fractions will be to round upward fractions of more than five-thousands and to round downward fractions of five-thousandths or less (i. e., 0.0050 would be 0.00 and 0.0051 would be 0.01).

§ 725.1014 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions with respect to internal management as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by and the instructions shall be issued by, the Deputy Administrator for Production Adjustment of the Commodity Stabilization Service.

§ 725.1015 *Applicability of §§ 725.1011 to 725.1028.* Sections 725.1011 to 725.1028 shall govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1959, in the case of burley, fire-cured, dark air-cured, and Virginia sun-cured tobacco, and July 1, 1959, in the case of flue-cured tobacco. However, the applicability of §§ 725.1011 to 725.1028, in the case of burley, flue-cured and Virginia sun-cured tobacco, is contingent upon the proclamation of national marketing quotas for such kinds of tobacco for the three marketing years beginning October 1, 1959, by the Secretary of Agri-

culture and approval thereof by growers voting in referenda pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 725.1016 *Determination of 1959 preliminary acreage allotments for old farms.* (a) The 1959 preliminary acreage allotment for an old tobacco farm shall be the 1958 farm acreage allotment established for such farm, except that where a quantity of tobacco produced on a farm prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty has been reduced because of the 1958 acreage allotment for such farm was not fully harvested, and the allotments for such farm for the three years 1956–58 (five years 1954–58 for burley tobacco) were underharvested to the extent provided in paragraph (c) of this section, the 1959 preliminary acreage allotment for such farm shall be determined subject to the provisions of paragraph (c) of this section, if applicable.

(b) For the purpose of determining, under the provisions of paragraph (a) of this section, a 1959 preliminary acreage allotment for an old farm equal to the 1958 farm acreage allotment for such farm, the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment determined for such farm prior to reduction, if any, because of a violation of the tobacco marketing quota regulations for a prior marketing year; and for the purpose of determining a 1959 preliminary acreage allotment for an old farm under the provisions of paragraph (c) of this section the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment established for such farm after any such reduction.

(c) The provisions of this paragraph shall be applied, if applicable, in the case of an old farm, only where a quantity of tobacco produced thereon prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty was reduced because the 1958 allotment was not fully harvested, and acreage allotments were underharvested as provided in this paragraph. If the harvested acreage (as that term is explained in subparagraphs (1), (2) and (3) of this paragraph) of flue-cured, fire-cured, dark air-cured or Virginia sun-cured tobacco on such old farm in each of the three years 1956–58 was less than 75 percent of the farm acreage allotment for each of such respective years, the 1959 preliminary allotment for such farm shall be the larger of the largest acreage of tobacco harvested on the farm in any one of such three years, or the average acreage of tobacco harvested on the farm in the five years 1954–58: *Provided,* That any such 1959 preliminary allotment shall not exceed the 1958 farm acreage allotment or be less than 0.01 acre. If the harvested acreage (as that term is explained in subparagraphs (1), (2) and (3) of this paragraph) of burley tobacco on an old farm subject to this paragraph in each of the five years 1954–58 was less than 50 percent of the farm acreage allotment for each of such respective years, the 1959 preliminary allotment for such farm shall be the largest acreage of tobacco harvested on the farm in any one of such five years, but not less than 0.01 acre.

(1) For the purposes of this paragraph, the 1956 harvested acreage shall have the meaning and include the acreage as provided in § 725.816 (c) (tobacco marketing quota regulations for the 1957–58 marketing year (21 F. R. 6803)); the 1957 harvested acreage shall have the meaning and include the acreage as provided in § 725.916 (c) (tobacco marketing quota regulations for the 1958–59 marketing year (22 F. R. 5675, 8103; 23 F. R. 135)); and the 1958 harvested acreage shall include the acreage on the farm applicable to the kind of tobacco involved which is determined as provided in the following subparagraphs (2) and (3) of this paragraph to be devoted or diverted in 1958 to participation in the acreage reserve program or conservation reserve program.

(2) The tobacco acreage devoted in 1958 to the acreage reserve program shall be the smallest of (i) the acreage reserve entered on the agreement, (ii) the measured acreage reserve, or (iii) the 1958 allotment minus the actual acreage devoted in 1958 to tobacco.

(3) The acreage diverted from allotment crops in 1958 to the conservation reserve program shall be the smallest of (i) the acreage determined to be in the conservation reserve at the regular rate, (ii) the reduction in soil bank base crops from the farm's soil bank base, or (iii) the amount by which the sum of all acreage allotments for the farm for crops for which there was a reduction in the quantity of excess commodity stored pursuant to the regulations to postpone or avoid payment of penalty because the 1958 allotments were not fully planted or as to tobacco was not fully harvested exceeds the sum of the acreage actually devoted to such allotment crops and the acreage reserve, if any, credited under subparagraph (2) of this paragraph to such crops. The crops involved will share pro rata in the acreage so determined on the basis of the respective reductions made in such crops. Such respective reductions will be the amount by which the 1958 allotment exceeds the sum of the acreage actually devoted to the crop and acreage devoted to the acreage reserve.

(d) Notwithstanding the foregoing provisions of this section, no 1959 preliminary allotment or 1959 farm tobacco acreage allotment shall be determined for any farm that the county and State committee determine has been retired from agricultural production: *Provided,* That this paragraph shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production, or for a farm for which an acreage allotment may be determined under the provisions of § 725.1020.

§ 725.1017 *1959 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 725.1016 shall be adjusted uniformly so that the total of such allotments for old farms plus the acreage available for adjusting acreage allotments for old farms, correction of errors, and for allotments for overlooked old farms pursuant to § 725.1018 shall not exceed the State acreage allotment: *Provided,* That in the case of burley tobacco, the farm acreage allotment shall not be less than the smallest of (a) the 1958 allotment, (b) fifty-hundredths of an acre, or (c) 10 percent of the cropland in the farm: *Provided further,* That no 1958 burley tobacco allotment of seventy-hundredths of an acre or less shall be reduced more than one-tenth of an acre, and no 1958 burley tobacco farm acreage allotment of more than seventy-hundredths of an acre will be reduced to less than six-tenths of an acre.

§ 725.1018 *Adjustment of acreage allotments for old farms, correction of errors, and allotments for overlooked old farms.* Notwithstanding the limitations contained in § 725.1016, the individual 1959 farm acreage allotment heretofore established for an old farm may be increased if the county committee justifies such increase to the satisfaction of the State committee or its representative as being necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The acreage available in the State for increasing allotments as above described under this section, correction of errors, and providing acreage allotments for overlooked farms shall not exceed one-tenth of one percent of the total acreage allotted to all tobacco farms in the State for the 1958–59 marketing year.

§ 725.1019 *Reductions of acreage allotment for violation of the marketing quota regulations for a prior marketing year.* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm for the 1958–59 or a prior marketing year which in fact was produced on a different farm, the 1959 acreage allotments established for both such farms shall be reduced, as provided in this section, except that such reduction for any such farm shall not be made if the county and State committees determine that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator or any producer on the farm shall have furnished complete and accurate proof of the disposition of all tobacco produced on the farm in 1958 or a prior year and in the event of failure to furnish such proof, the 1959 acreage allotment for the farm shall be reduced as provided in this section.

(c) If any producer has filed, or aided or acquiesced in the filing of, any false report with respect to the acreage of tobacco grown on the farm in 1958 or a prior year, the 1959 acreage allotment

for the farm shall be reduced as provided in this section.

(d) If in the calendar year 1958 more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested. In case the allotment is transferred through a State pool to another farm under § 725.1020 before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotment first established for the farm to which it is so transferred shall be reduced as described above in this paragraph.

(e) Any reduction made with respect to a farm's 1959 acreage allotment for any of the reasons heretofore provided in this section shall be made no later than (1) April 1, 1959, in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia or (2) May 1, 1959, in all other States; otherwise, if the reduction cannot be made by such dates, the reduction shall be made with respect to the acreage allotment next established for the farm but no later than by corresponding dates to be specified in a subsequent year: *Provided, however,* That no reduction shall be made under this section in the 1959 acreage allotment for any farm for a violation described in paragraph (a), (b), (c), or (d) of this section if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

(f) The amount of reduction in the 1959 allotment for a violation described in paragraph (a), (b), or (c) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the amount of such tobacco involved in the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The quantity of tobacco determined by the county committee to have been falsely identified, or produced on acreage falsely omitted from an acreage report as filed, or for which the county committee determines that proof of disposition has not been furnished, shall be considered as the amount of tobacco involved in the violation. If the actual quantity of tobacco falsely identified, or produced on acreage falsely omitted from an acreage report, or for which proof of disposition has not been furnished is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If the actual quantity of tobacco produced on acreage falsely omitted from an acreage report or for which proof of disposition has not been furnished is not known, the county committee shall determine such quantity in the following manner, and if the actual total production of tobacco on the farm is not known, the county committee shall determine such total production and the farm marketing quota in the following manner. The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided,* That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar. The yield per acre and the total production of tobacco for the farm as so determined by the county committee shall be deemed to be the actual yield per acre and the actual total production of tobacco for the farm. The actual yield per acre of tobacco on the farm as so determined by the county committee multiplied by the farm acreage allotment shall be deemed to be the actual production of the acreage allotment and the farm marketing quota. Where the actual quantity of tobacco for which proof of disposition has not been furnished is not known, such quantity shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production of tobacco on the farm determined as aforesaid, the quantity of tobacco for which proof of disposition has been furnished. Where the actual quantity of tobacco produced on acreage falsely omitted from an acreage report is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid by the acreage falsely omitted from the acreage report as filed.

(g) If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required under paragraph (a), (b), (c), or (d) of this section.

(h) If the farm involved in the violation has been divided prior to the reduction, the reduction shall be applied as heretofore provided in this section to the allotments for the divided farms required to be reduced under paragraph (a), (b), (c), or (d) of this section.

(i) Producers of tobacco in the 1958–59 marketing year shall submit proof of disposition of tobacco and records and reports relative to the provisions of this section as set forth in § 725.952 (Marketing Quota Regulations, 1958–59 marketing year, 1026—Burley, Flue, Fire, Air and Sun—58) (23 F. R. 4143).

§ 725.1020 *Reallocation of allotments released from farms removed from agricultural production.* (a) The allotment determined or which would have been determined for any land which is removed from agricultural production for any purpose because of acquisition by any Federal, State, or other agency having a right of eminent domain shall be placed in a State pool and shall be available to the State committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by such agencies. Upon application to the county committee, within five years from the date of such acquisition of the farm, any owner so displaced shall be entitled to have an allotment for any other farm owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm so acquired: *Provided,* That such allotment shall not exceed 20 percent of the acreage of cropland on the farm (50 percent of the acreage of cropland on the farm in the case of flue-cured tobacco).

(b) The provisions of this section shall not be applicable so long as (1) there is any marketing quota penalty due and unpaid with respect to the marketing of tobacco from the farm acquired by the Federal, State, or other agency; (2) any tobacco produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next to be established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper identification of tobacco produced on or marketed from such farm or due to a false acreage report.

§ 725.1021 *Farms divided or combined.* Allotments for farms reconstituted for 1959 shall be determined in accordance with Part 719 of this chapter.

§ 725.1022 *Determination of normal yields for old farms.* The county committee will determine a normal yield for each farm for which a 1959 tobacco acreage allotment was established by first obtaining the average of the three highest yields for such farms in any three years during the period 1950–55, or if tobacco was grown in less than three years of such period the yield for one year or the average yield of two years in such period. If in any case the preliminary yield so obtained exceeds 125 percent or is less than 80 percent of the county check yield (to be ascertained as hereafter provided) such preliminary yield shall be adjusted to the applicable percentage, and any preliminary yield may be also adjusted for drought, flood, or other abnormal conditions affecting the yield, but the yield so adjusted shall not exceed 125 percent or be less than 80 percent of the county check yield. If the total production extension for all farms in the county in 1956 obtained by multiplying the 1956 acreage allotment for each farm by the preliminary yield so computed for such farm in 1956 varies more than one percent from the total production extension obtained by multiplying the county check yield by the total of all allotted tobacco acreage in the county for 1956, the preliminary yield for each farm will then be factored to the extent required to eliminate any variance. Subject to the approval of the State committee, the yields may be further factored to provide a yield for each farm in the county that is not more than 125 percent or less than 80 percent of the county check yield. The yield for the farm thus determined shall be the

normal yield for the farm: *Provided,* That if the farm has been reconstituted since 1950, the normal yield for such farm shall be determined by the county committee by appraisal taking into consideration available yield data for the land involved and yields established as heretofore provided in this section for similar farms in the community. State committees or their representatives are authorized to make changes or require changes to be made in farm preliminary normal yields per acre which are necessary to result in a normal yield that is determined in accordance with this section whether or not a producer questions or appeals the normal yield as determined for the farm to the State committee; however, such changes shall not be permitted to result in a weighted yield per acre for all farms in the county that is in excess of 102 percent of the county check yield. The county check yield shall be determined by the Deputy Administrator on the basis of the average of the three highest yields in the county in any three years during the period 1950–55 adjusted where necessary so as to conform with and, except for factoring, to not exceed 125 percent or be less than 80 percent of the State check yield; such State check yield to be determined by the Deputy Administrator on the basis of the average of the three highest yields in the State in any three years during the period 1950–55, but not to exceed 125 percent or be less than 80 percent of the average of the three high year averages of all States.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 725.1023 *Determination of acreage allotments for new farms.* (a) The acreage allotment, other than an allotment made under § 725.1020, for a new farm shall be that acreage which the county committee with the approval of the State committee determines is fair and reasonable for the farm taking into consideration the past tobacco experience of the farm operator; the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed 50 percent of the average of acreage allotments established for two or more but not more than five old tobacco farms which are similar with respect to land, labor, and equipment available for the production of tobacco crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further,* That if the acreage planted to tobacco on a new tobacco farm is less than the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the acreage planted to tobacco on the farm.

(b) Notwithstanding any other provisions of this section a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience in growing the kind of tobacco for which an allotment is requested either as a share cropper, tenant, or as a farm operator during two of the past five years: *Provided,* That a farm operator who was in the armed services after September 16, 1940, shall be deemed to have met the requirements of this subparagraph if he has had such experience during one year either within the five years immediately prior to his entry into the armed services or within the five years immediately following his discharge from the armed services and if he files an application for an allotment within five crop years from the date of discharge: *And provided further,* That production of tobacco on a farm in 1955, 1956, 1957, or 1958 for which, in accordance with applicable law and regulations no 1955, 1956, 1957, or 1958 tobacco acreage allotment, respectively, was determined shall not be deemed such experience for any producer.

(2) The farm operator shall live on and obtain 50 percent or more of his livelihood from the farm covered by the application.

(3) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a burley, flue-cured, fire-cured, dark air-cured, or Virginia sun-cured tobacco allotment is established for the 1959–60 marketing year.

(4) The farm shall be operated by the owner thereof.

(5) The farm or any portion thereof shall not have been a part of another farm during any of the five years 1954–58 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1953 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1954–58 and at time of division of the farm contained cropland but received no part of the allotment due (*a*) to division of the allotment on a contribution basis, or (*b*) to agreement and approval of all interested parties as provided in regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One-fourth of one percent of the 1959 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield, be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quotas into State acreage allotments.

§ 725.1024 *Time for filing application.* An application for a new farm allotment shall be filed with the ASC county office prior to February 16, 1959, unless the farm operator was discharged from the armed services subsequent to December 31, 1958, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 725.1025 *Determination of normal yields for new farms.* The normal yield for a new farm shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 725.1022 for similar farms in the community.

MISCELLANEOUS

§ 725.1026 *Determination of acreage allotments and normal yield for farms returned to agricultural production.* (a) Notwithstanding the foregoing provisions of §§ 725.1011 to 725.1025, the acreage allotment for any farm which was acquired by any Federal, State, or other agency having the right of eminent domain, for any purpose and which is returned to agricultural production in 1959, or which was returned to agricultural production in 1958 too late for a 1958 allotment to be established, shall be determined by one of the following methods:

(1) If the land is acquired by the original owner within five years from the date of acquisition by a Federal, State or other agency having the right of eminent domain, any part of the acreage allotment which was or could have been established for such farm prior to its retirement from agricultural production which remains in the State pool (adjusted to reflect the uniform increases and decreases in comparable old farm allotments since the farm was acquired) may be established as the 1959 allotment for such farm by transfer from the pool, and if any part of the allotment for such land was transferred by the original owner through the State pool to another farm now owned by him, such owner may elect to transfer all or any part of such allotment (as adjusted) to the farm which is returned to agricultural production.

(2) If the land is acquired by a person other than the original owner, or if all of the allotment was transferred through the State pools to another farm and the original owner does not now own the farm to which the allotment was transferred, or if more than five years have elapsed since the date of acquisition by a Federal, State or other agency having the right of eminent domain, the farm returned to agricultural production shall be regarded as a new farm.

(b) The normal yield for any such farm shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 725.1022 for similar farms in the community.

§ 725.1027 *Approval of determinations made under §§ 725.1011 to 725.1026, and notices of farm acreage allotments.* (a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by or on behalf of the State committee, and the State committee may revise or require revision of any determinations

made under §§ 725.1011 to 725.1026. All acreage allotments and yields shall be approved by or on behalf of the State committee and no official notice of acreage allotment shall be mailed to a farm operator until such allotment has been approved by or on behalf of the State committee.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county office. Insofar as practical all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) a violation of the marketing quota regulations for a prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, no notice of such allotment shall be mailed until the proper allotment is determined for the farm by the county committee with the approval of the State committee: *Provided,* That the notice of allotment for any farm shall, insofar as practicable, be mailed no later than (i) April 1, 1959, in the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, or (ii) May 1, 1959, in all other States.

(d) If the county committee determines with the approval of the State Administrative Officer that the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and the county committee also determines that the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year, provided the acreage of tobacco harvested from the farm is not in excess of the acreage shown on the erroneous notice. In the event the acreage of tobacco harvested exceeds the farm acreage allotment shown on the erroneous notice, the acreage allotment for the farm as correctly determined and shown on a revised notice of farm acreage allotment and marketing quota shall be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year.

§ 725.1028 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm, may, within fifteen days after mailing of the official notice of the farm acreage allotment and marketing quota, file application in writing with the ASC county office to have such allotment reviewed by a review committee. This procedure governing the review of farm acreage allotments and marketing quotas is contained in the regulations issued by the Secretary (Part 711 of this chapter) which are available at the ASC county office.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 9th day of July 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
*Acting Secretary.*

[F. R. Doc. 58-5363; Filed, July 14, 1958; 8:48 a. m.]

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[1023—Allotments—(Maryland—59)-1]

## PART 727—MARYLAND TOBACCO

## MARKETING QUOTA REGULATIONS, 1959-60 MARKETING YEAR

GENERAL



ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS



ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS



MISCELLANEOUS



AUTHORITY: §§ 727.1011 to 727.1028 issued under sec. 375, 52 Stat. 66, as amended; 7 U. S. C. 1375. Interpret or apply secs. 301, 313, 363, 52 Stat. 38, as amended, 47, as amended, 63, 69 Stat. 684; 7 U. S. C. 1301, 1313, 1363.

GENERAL

§ 727.1011 *Basis and purpose.* The regulations contained in §§ 727.1011 to 727.1028 are issued pursuant to the Agricultural Adjustment Act of 1938, as amended, and govern the establishment of 1959 farm acreage allotments and normal yields for Maryland tobacco. The purpose of the regulations in §§ 727.1011 to 727.1028 is to provide the procedure for allocating on an acreage basis, the national marketing quota for Maryland tobacco for the 1959–60 marketing year among farms and for determining normal yields. Prior to preparing the regulations in §§ 727.1011 to 727.1028, public notice (23 F. R. 2429) was given in accordance with the Administrative Procedure Act (5 U. S. C. 1003). The data, views, and recommendations pertaining to the regulations in §§ 727.1011 to 727.1028, which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended.

§ 727.1012 *Definitions.* As used in §§ 727.1011 to 727.1028 and in all instructions, forms, and documents in connection therewith, the words and phrases defined in this section shall have the meanings herein assigned to them unless the context or subject matter otherwise requires.

(a) The definitions of the following terms as set forth in Part 719 of this chapter shall apply in §§ 727.1011 to 727.1028: "combination", "community committee", "county committee", "State committee", "county", "county office manager", "cropland", "Department", "Deputy Administrator", "division", "farm", "operator", "person", "producer", "reconstitution", "Secretary", "Soil Bank Contract", "State administrative officer", and "subdivision".

(b) "Director" means the Director, or Acting Director, Tobacco Division, Commodity Stabilization Service, United States Department of Agriculture.

(c) "New farm" means a farm on which tobacco will be harvested in 1959 for the first time since 1953. If, in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco har-

vested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is a new farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 727.1016.

(d) "Old farm" means a farm on which tobacco was harvested in one or more of the five years 1954 through 1958. If in accordance with applicable law and regulations, no 1955, 1956, 1957, or 1958 tobacco acreage allotment was determined for the farm, any acreage of tobacco harvested in 1955, 1956, 1957, or 1958, respectively, shall not be considered as harvested acreage in determining whether the farm is an old farm. The term "harvested" as used in this paragraph shall include acreage preserved as provided by section 377 of the Agricultural Adjustment Act of 1938, as amended, and acreage within the meaning of "harvested acreage" as provided in paragraph (c) of § 727.1016.

(e) "Community cropland factor" means that percentage determined by dividing the total cropland for all old farms in the community in 1958 into the total of the 1958 tobacco acreage allotment for such old farms: *Provided,* That (1) if it is determined that the cropland factors for all communities in the county are substantially the same, the county committee, with the approval of the State committee, may consider the entire county as one community, and (2) if there is only one farm in the county on which tobacco is grown, the community cropland factors of the nearest community in which tobacco is grown shall be used in determining the acreage indicated by cropland.

(f) "Acreage indicated by cropland" means that acreage determined by multiplying the number of acres of cropland in the farm by the community cropland factor.

(g) "Tobacco" means Maryland tobacco, type 32, as classified in Service and Regulatory Announcement No. 118 (Part 30 of this title) of the Bureau of Agricultural Economics of the United States Department of Agriculture. Tobacco which has the same characteristics and corresponding qualities, colors, and lengths, shall be treated as one type, regardless of any factors of historical or geographical nature which cannot be determined by an examination of the tobacco.

§ 727.1013 *Extent of calculations and rule of fractions.* All acreage allotments shall be rounded to the nearest one-hundredth acre. The rule of fractions will be to round upward fractions of more than five-thousandths and to round downward fractions of five-thousandths or less (i. e., 0.0050 would be 0.00 and 0.0051 would be 0.01).

§ 727.1014 *Instructions and forms.* The Director shall cause to be prepared and issued such forms as are necessary, and shall cause to be prepared such instructions for internal management as are necessary for carrying out the regulations in this part. The forms and instructions shall be approved by, and the instructions shall be issued by, the Deputy Administrator for Production Adjustment of the Commodity Stabilization Service.

§ 727.1015 *Applicability of §§ 727.1011 to 727.1028.* Sections 727.1011 to 727.1028 shall govern the establishment of farm acreage allotments and normal yields for tobacco in connection with farm marketing quotas for the marketing year beginning October 1, 1959. However, the applicability of §§ 727.1011 to 727.1028 is contingent upon the proclamation of a national marketing quota for Maryland tobacco for the three marketing years beginning October 1, 1959, by the Secretary of Agriculture and approval thereof by growers voting in a referendum pursuant to section 312 of the Agricultural Adjustment Act of 1938, as amended.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR OLD FARMS

§ 727.1016 *Determination of 1959 preliminary acreage allotments for old farms.* (a) The 1959 preliminary acreage allotment for an old tobacco farm shall be the 1958 farm acreage allotment established for such farm, except that where a quantity of tobacco produced on a farm prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty has been reduced because the 1958 acreage allotment for such farm was not fully harvested, and the allotments for such farm for the three years 1956–58 were underharvested to the extent provided in paragraph (c) of this section, the 1959 preliminary acreage allotment for such farm shall be determined subject to the provisions of paragraph (c) of this section, if applicable.

(b) For the purpose of determining, under the provisions of paragraph (a) of this section, a 1959 preliminary acreage allotment for an old farm equal to the 1958 farm acreage allotment for such farm, the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment determined for such farm prior to reduction, if any, because of a violation of the tobacco marketing quota regulations for a prior marketing year; and for the purpose of determining a 1959 preliminary acreage allotment for an old farm under the provisions of paragraph (c) of this section, the 1958 farm acreage allotment shall mean the 1958 farm acreage allotment established for such farm after any such reduction.

(c) The provisions of this paragraph shall be applied, if applicable, in the case of an old farm, only where a quantity of tobacco produced thereon prior to 1958 and stored under bond pursuant to regulations to postpone or avoid payment of penalty was reduced because the 1958 allotment was not fully harvested, and acreage allotments were underharvested as provided in this paragraph. If the harvested acreage (as that term is explained in subparagraphs (1), (2) and (3) of this paragraph) of Maryland tobacco on such old farm in each of the three years 1956–58 was less than 75 percent of the farm acreage allotment for each of such respective years, the 1959 preliminary allotment for such farm shall be the larger of the largest acreage of tobacco harvested on the farm in any one of such three years, or the average acreage of tobacco harvested on the farm in the five years 1954–58: *Provided,* That any such 1959 preliminary allotment shall not exceed the 1958 farm acreage allotment or be less than 0.01 acre.

(1) For the purposes of this paragraph, the 1956 harvested acreage shall have the meaning and include the acreage as provided in § 727.816 (b) (tobacco marketing quota regulations for the 1957–58 marketing year (21 F. R. 6882)), the 1957 harvested acreage shall have the meaning and include the acreage as provided in § 727.916 (c) (tobacco marketing quota regulations for the 1957–58 marketing year (22 F. R. 4355, 4912; 23 F. R. 136)); and the 1958 harvested acreage shall include the acreage on the farm applicable to the kind of tobacco involved which is determined as provided in the following subparagraphs (2) and (3) of this paragraph to be devoted or diverted in 1958 to participation in the acreage reserve program or conservation reserve program.

(2) The tobacco acreage devoted in 1958 to the acreage reserve program shall be the smallest of (i) the acreage reserve entered on the agreement, (ii) the measured acreage reserve, or (iii) the 1958 allotment minus the actual acreage devoted in 1958 to tobacco.

(3) The acreage diverted from allotment crops in 1958 to the conservation reserve program shall be the smallest of (i) the acreage determined to be in the conservation reserve at the regular rate, (ii) the reduction in soil bank base crops from the farm's soil bank base, or (iii) the amount by which the sum of all acreage allotments for the farm for crops for which there was a reduction in the quantity of excess commodity stored pursuant to the regulations to postpone or avoid payment of penalty because the 1958 allotments were not fully planted or as to tobacco was not fully harvested exceeds the sum of the acreage actually devoted to such allotment crops and the acreage reserve, if any, credited under subparagraph (2) of this section to such crops. The crops involved will share pro rata in the acreage so determined on the basis of the respective reductions made in such crops. Such respective reductions will be the amount by which the 1958 allotment exceeds the sum of the acreage actually devoted to the crop and the acreage devoted to the acreage reserve.

(d) Notwithstanding the foregoing provisions of this section, no 1959 preliminary allotment or 1959 farm tobacco acreage allotment shall be determined for any farm that the county and State committee determine has been retired from agricultural production: *Provided,* That this paragraph shall not preclude the determination of a preliminary acreage allotment for an old farm returned to agricultural production, or for a farm for which an acreage allotment may be determined under the provisions of § 727.1020.

§ 727.1017 *1959 old farm tobacco acreage allotment.* The preliminary allotments calculated for all old farms in the State pursuant to § 727.1016 shall be adjusted uniformly so that the total of such allotments plus the acreage available for adjusting acreage allotments for old farms, correction of errors made in old farm allotments, and allotments for overlooked old farms pursuant to § 727.1018 shall not exceed the State acreage allotment.

§ 727.1018 *Adjustment of acreage allotments for old farms, correction of errors made in old farm allotments, and allotments for overlooked old farms.* Notwithstanding the limitations contained in § 727.1016, the farm acreage allotment for an old farm may be increased if the community and county committees find (with the approval of the State committee) that such increase is necessary to establish an allotment for such farm which is fair and equitable in relation to the allotments for other old farms in the community, on the basis of the past acreage of tobacco, making due allowances for drought, flood, hail, other abnormal weather conditions, plant bed, and other diseases; land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco. The acreage available for increasing allotments under this section, correction of errors made in old farm allotments, and allotments for overlooked old farms shall not exceed three-fourths of one percent of the total acreage allotted to all tobacco farms in the State for the 1958–59 marketing year.

§ 727.1019 *Reduction of acreage allotment for violation of the marketing quota regulations for a prior marketing year.* (a) If tobacco was marketed or was permitted to be marketed in any marketing year as having been produced on the acreage allotment for any farm for the 1958–59 or a prior marketing year which in fact was produced on a different farm, the 1959 acreage allotments established for both such farms shall be reduced, as provided in this section, except that such reduction for any such farm shall not be made if the county and State committee determine that no person connected with such farm caused, aided, or acquiesced in such marketing.

(b) The operator or any producer on the farm shall have furnished complete and accurate proof of the disposition of all tobacco produced on the farm in 1958 or a prior year and in the event of failure to furnish such proof, the 1959 acreage allotment for the farm shall be reduced as provided in this section.

(c) If any producer has filed, or aided or acquiesced in the filing of, any false report with respect to the acreage of tobacco grown on the farm in 1958 or a prior year, the 1959 acreage allotment for the farm shall be reduced as provided in this section.

(d) If in the calendar year 1958 more than one crop of tobacco was grown from (1) the same tobacco plants, or (2) different tobacco plants, and is harvested for marketing from the same acreage of a farm, the acreage allotment next established for such farm shall be reduced by an amount equivalent to the acreage from which more than one crop of tobacco was so grown and harvested. In case the allotment is transferred through a State pool to another farm under § 727.1020 before the allotment reduction can be made effective on the farm on which the tobacco was grown, the allotment first established for the farm to which it is so transferred shall be reduced as described above in this paragraph.

(e) Any reduction made with respect to a farm's 1959 acreage allotment for any of the reasons heretofore provided in this section shall be made no later than May 1, 1959. If the reduction cannot be made by such dates, the reduction shall be made with respect to the acreage allotment next established for the farm but no later than by a corresponding date to be specified in a subsequent year: *Provided, however,* That no reduction shall be made under this section in the 1959 acreage allotment for any farm for a violation described in paragraph (a), (b), (c), or (d) of this section if the acreage allotment for such farm for any prior year was reduced on account of the same violation.

(f) The amount of reduction in the 1959 allotment for a violation described in paragraph (a), (b) or (c) of this section shall be that percentage which the amount of tobacco involved in the violation is of the respective farm marketing quota for the farm for the year in which the violation occurred. Where the amount of such tobacco involved in the violation equals or exceeds the amount of the farm marketing quota, the amount of reduction shall be 100 percent. The quantity of tobacco determined by the county committee to have been falsely identified, or produced on acreage falsely omitted from an acreage report as filed, or for which the county committee determines that proof of disposition has not been furnished, shall be considered as the amount of tobacco involved in the violation. If the actual quantity of tobacco falsely identified, or produced on acreage falsely omitted from an acreage report, or for which proof of disposition has not been furnished is known, such quantity shall be determined by the county committee to be the amount of tobacco involved in the violation. If the actual quantity of tobacco produced on acreage falsely omitted from an acreage report or for which proof of disposition has not been furnished is not known, the county committee shall determine such quantity in the following manner, and if the actual total production of tobacco on the farm is not known, the county committee shall determine such total production and the farm marketing quota in the following manner. The yield per acre and the total production of tobacco on the farm shall be determined by taking into consideration the condition of the tobacco crop during production, if known, and the actual yield per acre of tobacco on other farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar: *Provided,* That the determination of the total production of tobacco on the farm shall not exceed the harvested acreage of tobacco on the farm multiplied by the average actual yield on farms in the locality on which the soil and other physical factors affecting the production of tobacco are similar. The yield per acre and the total production of tobacco for the farm as so determined by the county committee shall be deemed to be the actual yield per acre and the actual total production of tobacco for the farm. The actual yield per acre of tobacco on the farm as so determined by the county committee multiplied by the farm acreage allotment shall be deemed to be the actual production of the acreage allotment and the farm marketing quota. Where the actual quantity of tobacco for which proof of disposition has not been furnished is not known, such quantity shall be determined by the county committee to be the quantity of tobacco remaining after deducting from the total production of tobacco on the farm determined as aforesaid, the quantity of tobacco for which proof of disposition has been furnished. Where the actual quantity of tobacco produced on acreage falsely omitted from an acreage report is not known, such quantity shall be determined by the county committee to be the quantity resulting from multiplying the yield per acre for the farm determined as aforesaid by the acreage falsely omitted from the acreage report as filed.

(g) If the farm involved in the violation is combined with another farm prior to the reduction, the reduction shall be applied as heretofore provided in this section to that portion of the allotment for which a reduction is required under paragraph (a), (b), (c), or (d) of this section.

(h) If the farm involved in the violation has been divided prior to the reductions, the reduction shall be applied as heretofore provided in this section to the allotments for the divided farms required to be reduced under paragraph (a), (b), (c), or (d) of this section.

(i) Producers of tobacco in the 1958–59 marketing year shall submit proof of disposition of tobacco and records and reports relative to the provisions of this section as set forth in § 727.952 of this part (Marketing Quota Regulations, 1958–59 Marketing Year, 1026—Maryland—58).

§ 727.1020 *Reallocation of allotments released from farms removed from agricultural production.* (a) The allotment determined or which would have been determined for any land which is removed from agricultural production for any purpose because of acquisition by any Federal, State, or other agency having a right of eminent domain shall be placed in a State pool and shall be available to the committee for use in providing equitable allotments for farms owned or purchased by owners displaced because of acquisition of their farms by such agencies. Upon application to the county committee, within five years from the date of such acquisition of the farm, any owner so displaced shall be entitled to have an allotment for any other farm

owned or purchased by him equal to an allotment which would have been determined for such other farm plus the allotment which would have been determined for the farm so acquired: *Provided,* That such allotment shall not exceed 20 percent of the acreage of cropland on the farm.

(b) The provisions of this section shall not be applicable so long as (1) there is any marketing quota penalty due and unpaid with respect to the marketing of tobacco from the farm acquired by the Federal, State, or other agency; (2) any tobacco produced on such farm has not been accounted for as required by the Secretary; or (3) the allotment next to be established for the farm acquired by the Federal, State, or other agency would have been reduced because of false or improper indentification of tobacco produced on or marketed from such farm or due to a false acreage report.

§ 727.1021 *Farms divided or combined.* Allotments for farms reconstituted for 1959 shall be determined in accordance with Part 719 of this chapter.

§ 727.1022 *Determination of normal yields for old farms.* The county committee will determine by appraisal a normal yield for each farm for which a 1959 tobacco acreage allotment was established on the basis of the best yield information available for the years 1950–55. The preliminary yield so appraised shall not exceed 125 percent or be less than 80 percent of the county check yield (to be ascertained as hereafter provided). Any preliminary yield may be also adjusted for drought, flood or other abnormal conditions affecting the yield, but the preliminary yield so adjusted shall not exceed 125 percent or be less than 80 percent of the county check yield. If the total production extension for all farms in the county in 1956 obtained by multiplying the 1956 acreage allotment for each farm by the preliminary yield so computed for such farm varies more than one percent from the total production extension obtained by multiplying the county check yield by the total of all allotted tobacco acreage in the county for 1956, the yield for each farm will then be factored to the extent required to eliminate any variance. Subject to the approval of the State committee, the yields may be further factored to provide a yield for each farm in the county that is not more than 125 percent or less than 80 percent of the county yield. The yield for the farm thus determined shall be the normal yield for the farm. State committees or their representatives are authorized to make changes or require changes to be made in farm preliminary normal yields per acre which are necessary to result in a normal yield that is determined in accordance with this section whether or not a producer questions or appeals the normal yield as determined for the farm to the State committee; however, such changes shall not be permitted to result in a weighted yield per acre for all farms in the county that is in excess of 102 percent for the county check yield. The county check yield shall be determined by the Deputy Administrator on the basis of the average of the three highest yields in the county in any three years during the period 1950–55 adjusted where necessary so as to conform with and, except for factoring, to not exceed 125 percent or be less than 80 percent of the State check yields; such State check yield to be determined by the Deputy Administrator on the basis of the average of the three highest yields in the State in any three years during the period 1950–55, but not to exceed 125 percent of be less than 80 percent of the average of the three high year averages in all States.

ACREAGE ALLOTMENTS AND NORMAL YIELDS FOR NEW FARMS

§ 727.1023 *Determination of acreage allotments for new farms.* (a) The acreage allotment, other than an allotment made under § 727.1020, for a new farm shall be that acreage which the county committee determines is fair and reasonable for the farm taking into consideration the past tobacco experience of the farm operator, the land, labor, and equipment available for the production of tobacco; crop rotation practices; and the soil and other physical factors affecting the production of tobacco: *Provided,* That the acreage allotment so determined shall not exceed 50 percent of the average of the acreage allotments established for two or more, but not more than five, old tobacco farms which are similar with respect to land, labor, and equipment available for the production of tobacco, crop rotation practices, and the soil and other physical factors affecting the production of tobacco: *And provided further,* That if the acreage planted to tobacco on a new tobacco farm is less than the tobacco acreage allotment otherwise established for the farm pursuant to this section, such allotment shall be automatically reduced to the acreage planted to tobacco on the farm.

(b) Notwithstanding any other provisions of this section, a tobacco acreage allotment shall not be established for any new farm unless each of the following conditions has been met:

(1) The farm operator shall have had experience during two of the past five years in Maryland tobacco and such experience shall have been for the entire crop year beginning with the preparation of the plant bed and extending through preparation of the tobacco for market: *Provided,* That a farm operator who was in the armed services after September 16, 1940, shall be deemed to have met the requirements of this subparagraph if he has had such experience during one year either within the five years immediately prior to his entry into the armed services or within the five years immediately following his discharge from the armed services and if he files an application for an allotment within five crop years from date of discharge: *And provided further,* That production of tobacco on a farm in 1955, 1956, 1957, or 1958 for which in accordance with applicable law and regulations no 1955, 1956, 1957, or 1958 tobacco acreage allotment, respectively, was determined shall not be deemed such experience for any producer.

(2) The farm operator shall live on and receive 50 percent or more of his livelihood from the farm covered by the application.

(3) The farm shall not have a 1959 allotment for any kind of tobacco other than that for which application is made under this part.

(4) The farm covered by the application shall be the only farm owned or operated by the farm operator for which a Maryland tobacco acreage allotment is established for the 1959–60 marketing year.

(5) The farm shall be operated by the owner thereof.

(6) The farm or any portion thereof shall not have been a part of another farm during any of the five years 1954–58 for which an old farm tobacco acreage allotment was determined, except that this provision shall not of itself make a farm ineligible for a new farm allotment (i) if it is the same farm or a portion of the same farm for which an old farm allotment was cancelled since 1953 due to no tobacco being produced thereon for five years, or (ii) if it was a portion of an old farm during any of the years 1954–58 and at time of division of the farm contained cropland but received no part of the allotment due (*a*) to division of the allotment on a contribution basis, or (*b*) to agreement and approval of all interested parties as provided in regulations governing divisions and combinations of allotments.

(c) The acreage allotments established as provided in this section shall be subject to such downward adjustment as is necessary to bring such allotments in line with the total acreage available for allotment to all new farms. One-eighth of one percent of the 1959 national marketing quota shall, when converted to an acreage allotment by the use of the national average yield be available for establishing allotments for new farms. The national average yield shall be the average of the several State yields used in converting the State marketing quota into State acreage allotments.

§ 727.1024 *Time for filing application.* An application for a new farm allotment shall be filed with the ASC county office no later than February 15, 1959, unless the farm operator was discharged from the armed services subsequent to December 31, 1958, in which case such application shall be filed within a reasonable period prior to planting tobacco on the farm.

§ 727.1025 *Determination of normal yields for new farms.* The normal yield for a new farm shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 727.1022 for similar farms in the community.

MISCELLANEOUS

§ 727.1026 *Determination of acreage allotments and normal yields for farms returned to agricultural production.* (a) Notwithstanding the foregoing provisions of §§ 727.1011 to 727.1025, the acreage allotments for any farm which was

acquired by any Federal, State, or other agency having the right of eminent domain for any purpose and which is returned to agricultural production in 1959 or which was returned to agricultural production in 1958 too late for the 1958 allotment to be established shall be determined by one of the following methods:

(1) If the land is acquired by the original owner within five years from the date of acquisition by a Federal, State or other agency having the right of eminent domain, any part of the acreage allotment which was or could have been established for such farm prior to its retirement from agricultural production which remains in the State pool (adjusted to reflect the uniform increases and decreases in comparable old farm allotments since the farm was acquired) may be established as the 1959 allotment for such farm by transfer from the pool, and if any part of the allotment for such land was transferred by the original owner through the State pool to another farm now owned by him, such owner may elect to transfer all or any part of such allotment (as adjusted) to the farm which is returned to agricultural production.

(2) If the land is acquired by a person other than the original owner, or if all of the allotment was transferred through the State pools to another farm and the original owner does not now own the farm to which the allotment was transferred, or if more than five years have elapsed since the date of acquisition by a Federal, State or other agency having the right of eminent domain, the farm returned to agricultural production shall be regarded as a new farm.

(b) The normal yield for any such farm shall be that yield per acre which the county committee determines by appraisal, taking into consideration available yield data for the land involved and yields established as provided in § 727.1022 for similar farms in the community.

§ 727.1027 *Approval of determinations made under §§ 727.1011 to 727.1026, and notices of farm acreage allotments.* (a) All farm acreage allotments and yields shall be determined by the county committee of the county in which the farm is located and shall be reviewed by or on behalf of the State committee, and the State committee may revise or require revision of any determinations made under §§ 727.1011 to 727.1026. All acreage allotments and yields shall be approved by or on behalf of the State committee, and no official notice of acreage allotment shall be mailed to a grower until such allotment has been approved by or on behalf of the State committee.

(b) An official notice of the farm acreage allotment and marketing quota shall be mailed to the operator of each farm shown by the records of the county committee to be entitled to an allotment. The notice to the operator of the farm shall constitute notice to all persons who as operator, landlord, tenant, or sharecropper are interested in the farm for which the allotment is established. All such notices shall bear the actual or facsimile signature of a member of the county committee. The facsimile signature may be affixed by the county committeemen or an employee of the county office. Insofar as practicable all allotment notices shall be mailed in time to be received prior to the date of any tobacco marketing quota referendum. A copy of such notice, containing thereon the date of mailing, shall be maintained for not less than 30 days in a conspicuous place in the county office and shall thereafter be kept available for public inspection in the office of the county committee. A copy of such notice certified as true and correct shall be furnished without charge to any person interested in the farm in respect to which the allotment is established.

(c) If the records of the county committee indicate that the allotment established for any farm may be changed because of (1) a violation of the marketing quota regulations for a prior marketing year, (2) removal of the farm from agricultural production, (3) division of the farm, or (4) combination of the farm, no notice of such allotment shall be mailed until the proper allotment is determined for the farm by the county committee with the approval of the State committee: *Provided,* That the notice of allotment for any farm shall, insofar as practicable, be mailed no later than May 1, 1959.

(d) If the county committee determines with the approval of the State administrative officer that the official written notice of the farm acreage allotment issued for any farm erroneously stated the acreage allotment to be larger than the correct allotment, and the county committee also determines that the error was not so gross as to place the operator on notice thereof, and that the operator, relying upon such notice and acting in good faith, planted an acreage of tobacco in excess of the correct farm acreage allotment, the acreage allotment shown on the erroneous notice shall be deemed to be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year, provided the acreage of tobacco harvested from the farm is not in excess of the acreage shown on the erroneous notice. In the event the acreage of tobacco harvested exceeds the farm acreage allotment shown on the erroneous notice, the acreage allotment for the farm as correctly determined and shown on a revised notice of farm acreage allotment and marketing quota shall be the tobacco acreage allotment for the farm for all purposes in connection with the tobacco marketing quota program for the 1959–60 marketing year.

§ 727.1028 *Application for review.* Any producer who is dissatisfied with the farm acreage allotment and marketing quota established for his farm, may within fifteen days after mailing of the official notice of farm acreage allotment and marketing quota, file application in writing with the ASC county office to have such allotment reviewed by a review committee. The procedures governing the review of farm acreage allotments and marketing quotas are contained in the regulations issued by the Secretary (Part 711 of this chapter) which are available at the ASC county office.

NOTE: The record keeping and reporting requirements of these regulations have been approved by and subsequent reporting requirements will be subject to the approval of the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

Done at Washington, D. C., this 9th day of July 1958. Witness my hand and the seal of the Department of Agriculture.

[SEAL] TRUE D. MORSE,
*Acting Secretary.*

[F. R. Doc. 58-5362; Filed, July 14, 1958; 8:48 a. m.]

## Chapter VIII—Commodity Stabilization Service (Sugar), Department of Agriculture

### Subchapter C—Determination of Proportionate Shares

[Sugar Determination 850.76, as Amended, Supp. 2]

### PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

#### COLORADO PROPORTIONATE SHARE AREA AND FARM PROPORTIONATE SHARES FOR THE 1958 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1958 Crop (22 F. R. 8107, 8175, 9877; 23 F. R. 4325), the Agricultural Stabilization and Conservation Colorado State Committee has issued the bases and procedures for dividing the State into proportionate share areas and establishing individual farm proportionate shares from the allocation of 143,101 acres established for Colorado by the determination. Copies of these bases and procedures are available for public inspection at the office of such Committee at the New Custom House, Denver, Colorado, and at the Offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Colorado. These bases and procedures incorporate the following:

§ 850.79 *Colorado*—(a) *Proportionate share areas.* Colorado shall be divided into three proportionate share areas comprising the parts of the State included in the factory districts of the Great Western Sugar Company, the Rock Ford-Sugar City-Swink factory districts, and the Delta factory district. These areas shall be designated Northern Area, Southern Area, and Western Area, respectively. Acreage allotments for these areas shall be computed by applying a weighting of 50 percent to the seven-year 1950–56 average accredited acreage for each area as a measure of "past production", and a weighting of 50 percent to the average of the two highest years' accredited acreage during the period 1950–56, as a measure of ability to produce, with pro rata adjustments to the State allocation of 143,101 acres. This results in the following area allocations: Northern Area—116,996 acres;

Southern Area—20,660 acres; and Western Area—5,445 acres.

(b) *Set-asides of acreage.* Set-asides of acreage shall be made from area allotments as follows: Northern Area—1,170 acres for new producers, 1,170 acres for appeals, and 6,492 acres for adjustments in initial shares; Southern Area—207 acres for new producers, 207 acres for appeals, and 2,907 acres for adjustments in initial shares; and Western Area—54 acres for new producers, 54 acres for appeals, and 1,384 acres for adjustments in initial shares.

(c) *Requests for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC County Office on Form SU–100, Request for Sugar Beet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.76. If a preliminary request for a tentative farm proportionate share is filed, a fully-completed form SU–100 shall be filed by April 1, 1958. However, requests for proportionate shares may be accepted after such dates and shares may be established if the county committee determines that in any such case the farm operator was prevented from filing a completed form SU–100 by such dates because of absence, illness or other reasons beyond his control.

(d) *Establishment of individual proportionate shares for old-producer farms*—(1) *Farm bases.* For each old-producer farm having an accredited acreage record for at least one of the years 1955–57, a farm base shall be determined by applying a formula to accredited acreage record of sugar beets on the farm during a base period.

(i) *Northern Area.* The base period shall be 1954–56 and the formula shall be the three-year average accredited acreage (1954–56).

(ii) *Southern Area.* The base period shall be 1954–56 and the formula shall be 75 percent of the three-year (1954–56) accredited acreage plus 25 percent of the highest accredited acreage during the base period.

(iii) *Western Area.* The base period shall be 1952–56 and the formula shall be 75 percent of the five-year (1952–56) average accredited acreage plus 25 percent of the two-year (1955–56) average.

(2) *Initial proportionate shares.* For each proportionate share area, the total of individual farm bases for old-producer farms, as established pursuant to this paragraph, is less than the area allotment minus the set-asides of acreage established under paragraph (b) of this section. Accordingly, initial porportionate shares shall be established from the farm bases in each proportionate share area as follows: For farms for which respective requested acreages are equal to or less than their farm bases, the initial shares shall coincide with requested acreage; and for all other farms, initial shares shall be computed by prorating to such farms in accordance with their respective bases, the area allotment less the prescribed set-asides and the total of the initial shares established in accordance with the preceding part of this subparagraph.

(3) *Adjustments in initial shares.* Within the acreage available from the set-aside for adjustments, and from acreage of initial shares in excess of requested acreages in each proportionate share area, adjustments shall be made in initial farm proportionate shares for old producers so as to establish a proportionate share for each farm which is fair and equitable as compared with proportionate shares for all other farms in the area by taking into consideration availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities, and the production experience of the operator.

(e) *Establishment of individual proportionate shares for new-producer farms.* Within the acreage set aside for new producers in each proportionate share area, proportionate shares shall be established in an equitable manner for farms to be operated during the 1958-crop year by new producers (as defined in § 850.76) by taking into consideration the availability and suitability of land, area of available fields, availability of irrigation water, adequacy of drainage, availability of production and marketing facilities and the production experience of the operator. In establishing proportionate shares for new producers, consideration shall be given to the minimum acreage below which it would not be considered economically feasible to plant sugar beets on each farm. The State Committee has determined that under usual circumstances, this minimum level should be twelve acres.

(f) *Adjustment under appeals.* Within the acreage set aside for making adjustments under appeals and any other acreage remaining unused in each proportionate share area, adjustments shall be made in proportionate shares under appeals to establish fair and equitable farm shares in accordance with the provisions of § 850.76, applicable to appeals.

(g) *Adjustments because of unused acreage.* To the extent of acreage available within the allotment for each proportionate share area from underplanting and failure to plant, and unused acreage from set-asides and other sources, adjustments shall be made in farm proportionate shares during the 1958-crop season. However, any acreage released by producers prior to March 5 shall be used to increase small proportionate shares (less than 50 percent of the average for the area) so as to promote the more efficient operation of farms. In increasing such small-producer shares, the State Committee shall take into consideration the size of beet operations for small farms in the area, the type of operations in the area, and other pertinent factors relating to efficient sugar beet production.

(h) *Notification of farm operators.* The farm operator shall be notified concerning the proportionate share established for his farm on form SU–103, Notice of Farm Proportionate Share—1958 Sugar Beet Crop, even if the acreage established is "none". In each case of approved adjustment, whether resulting from the release of acreage, the redistribution of unused acreage, appeals or the reconstitution of the farm, the farm operator shall be notified regarding the adjusted proportionate share on a form SU–103–A or other similar written notice. For each tentative proportionate share which is established, the person filing the request for such share shall be notified on a form SU–103–B specifying that such tentative share does not constitute a farm proportionate share for the purpose of payment under the Sugar Act of 1948, as amended.

(i) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.76.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets for the bases and procedures established by the Agricultural Stabilization and Conservation Colorado State Committee for determining farm proportionate shares in Colorado in accordance with the determination of proportionate shares for the 1958 crop of sugar beets, as issued by the Secretary of Agriculture.

Colorado is again divided into the same three areas. Advisory committees, including grower and processor representatives, are utilized. In establishing proportionate shares for old producers, the factors of "past production" and "ability to produce" sugar beets are measured by applying formulas to the accredited acreages for the crop years 1954–56 in the Northern and Southern Areas and for the crop years 1952–56 in the Western Area.

The procedure for establishing farm shares for new producers meets the related requirements of § 850.76. The acreage set aside for such producers is sufficient to establish shares for farms at the prescribed minimum levels for those having the required qualifications. Twelve-acre shares are determined to be minimum economic units for new farms.

The bases and procedures for making adjustments in initial proportionate shares and for adjusting shares subsequently because of unused acreage and appeals, are designed to provide a fair and equitable proportionate share for each farm of the total acreage of sugar beets required to enable the domestic beet sugar area to meet its quota and provide a normal carryover inventory.

(Sec. 403, 61 Stat. 921; 7 U. S. C. 1153. Interprets or applies secs. 301, 302, 61 Stat. 929, 930, as amended; 7 U. S. C. 1131, 1132)

Dated: June 12, 1958.

[SEAL] M. C. McCORMICK,
*Chairman, Agricultural Stabilization and Conservation Colorado State Committee.*

Approved: July 3, 1958.

LAWRENCE MYERS,
*Director, Sugar Division, Commodity Stabilization Service.*

[F. R. Doc. 58–5366; Filed, July 14, 1958; 8:49 a. m.]

[Sugar Determination 850.76, as Amended, Supp. 4]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

ILLINOIS FARM PROPORTIONATE SHARES FOR 1958 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1958 Crop (22 F. R. 8107, 8175, 9877) the Agricultural Stabilization and Conservation Illinois State Committee has issued the bases and procedures for establishing individual farm proportionate shares from the allocation of 1,972 acres established for Illinois by the determination. Copies of these bases and procedures are available for public inspection at the office of such committee at Room 232, U. S. Post Office and Court House, Springfield, Illinois, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Illinois. These bases and procedures incorporate the following:

§ 850.80 *Illinois*—(a) *Request for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC county office on form SU–100, Requests for Sugar Beet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.76.

(b) *Establishment of individual farm proportionate shares.* For each farm in Illinois for which a request for proportionate share is filed, the proportionate share shall be established from the State allocation of 1,972 acres so as to coincide with the acreage of 1958-crop sugar beets planted on such farm.

(c) *Notification of farm operators.* The farm operator shall be furnished a notice informing him that his proportionate share will coincide with his planted acreage.

(d) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.76.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Illinois State Committee for determining farm proportionate shares in Illinois in accordance with the determination of proportionate shares for the 1958 crop of sugar beets, as issued by the Secretary of Agriculture.

The acreage of sugar beets actually planted within the State is smaller than the State allocation. This situation makes unnecessary the carrying out of detailed procedure which would otherwise be required. It is unnecessary to apply a specific formula in computing farm shares, to make set-asides of acreage for new producers and appeals, and to make adjustments in farm shares to reflect ability to producers or to distribute unused acreage. Accordingly, this supplement provides for a distribution of acreage within the State allocation by specifying that individual farm proportionate shares shall equal the acreages planted on the various farms.

(Sec. 403, 61 Stat. 921; 7 U. S. C. 1153. Interprets or applies secs. 301, 302, 61 Stat. 929, 930 as amended; 7 U. S. C. 1131, 1132)

Dated: June 12, 1958.

[SEAL] LEE C. THOMPSON,
*Chairman Agricultural Stabilization and Conservation Illinois State Committee.*

Approved: July 3, 1958.

LAWRENCE MYERS,
*Director, Sugar Division, Commodity Stabilization Service.*

[F. R. Doc. 58–5367; Filed, July 14, 1958; 8:49 a. m.]

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[Sugar Determination 850.76, as Amended, Supp. 7]

PART 850—DOMESTIC BEET SUGAR PRODUCING AREA

INDIANA FARM PROPORTIONATE SHARES FOR 1958 CROP

Pursuant to the provisions of the Determination of Proportionate Shares for Farms in the Domestic Beet Sugar Area, 1958 Crop (22 F. R. 8107, 8175, 9877) the Agricultural Stabilization and Conservation Indiana State Committee has issued the bases and procedures for establishing individual farm proportionate shares from the allocation of 41 acres established for Indiana by the determination. Copies of these bases and procedures are available for public inspection at the office of such committee at Room 516, Park Building, 611 N. Park Avenue, Indianapolis, Indiana, and at the offices of the Agricultural Stabilization and Conservation Committees in the sugar beet producing counties of Indiana. These bases and procedures incorporate the following:

§ 850.83 *Indiana*—(a) *Requests for proportionate shares.* A request for each farm proportionate share shall be filed at the local ASC county office on form SU–100, Requests for Sugar Beet Proportionate Share, under the conditions, and on or before the closing date for such filing, as provided in § 850.76.

(b) *Establishment of individual farm proportionate shares.* For each farm in Indiana for which a request for proportionate share is filed, the proportionate share shall be established from the State allocation of 41 acres so as to coincide with the acreage of 1958–crop sugar beets planted on such farm.

(c) *Notification of farm operators.* The farm operator shall be furnished a notice informing him that his proportionate share will coincide with his planted acreage.

(d) *Determination provisions prevail.* The bases and procedures set forth in this section are issued in accordance with and subject to the provisions of § 850.76.

STATEMENT OF BASES AND CONSIDERATIONS

This supplement sets forth the bases and procedures established by the Agricultural Stabilization and Conservation Indiana State Committee for determining farm proportionate shares in Indiana in accordance with the determination of proportionate shares for the 1958 crop of sugar beets as issued by the Secretary of Agriculture.

The acreage of sugar beets actually planted within the State is smaller than the State allocation. This situation makes unnecessary the carrying out of detailed procedure which would otherwise be required. It is unnecessary to apply a specific formula in computing farm shares, to make set-asides of acreage for new producers and appeals, and to make adjustments in farm shares to reflect ability to produce or to distribute unused acreage. Accordingly, this supplement provides for a distribution of acreage within the State allocation by specifying that individual farm proportionate shares shall equal the acreages planted on the various farms.

(Sec. 403, 61 Stat. 921; 7 U. S. C. 1153. Interprets or applies sec. 301, 302, 61 Stat. 929, 930, as amended; 7 U. S. C. 1131, 1132)

Dated: June 10, 1958.

[SEAL] M. K. DERRICK,
*Chairman, Agricultural Stabilization and Conservation Indiana State Committee.*

Approved: July 3, 1958.

LAWRENCE MYERS,
*Director, Sugar Division, Commodity Stabilization Service.*

[F. R. Doc. 58–5368; Filed, July 14, 1958; 8:50 a. m.]

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## Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

### Subchapter A—Marketing Orders

[Lemon Reg. 746, Amdt. 1]

PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

LIMITATION OF HANDLING

*Findings.* 1. Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

2. It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U. S. C. 1001 et seq.) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate

the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient, and this amendment relieves restriction on the handling of lemons grown in California and Arizona.

*Order, as amended.* The provisions in paragraph (b) (1) (ii) of § 953.853 (Lemon Regulation 746; 23 F. R. 5117) are hereby amended to read as follows:

(ii) District 2: 441,750 cartons.

(Sec. 5, 49 Stat. 753, as amended; 7 U. S. C. 608c)

Dated: July 10, 1958.

[SEAL] S. R. SMITH,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F. R. Doc. 58-5392; Filed, July 14, 1958 8:53 a. m.]

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**Subchapter B—Prohibitions of Imported Commodities**

PART 1069—LIMES

LIME REGULATION NO. 2

Pursuant to the provisions of section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), paragraphs (a) and (c), respectively, of § 1069.2 (Lime Regulation No. 2; 23 F. R. 1654) are hereby amended to read as follows:

§ 1069.2 *Lime Regulation No. 2.* (a) On and after the effective time of this section, the importation into the United States of any lot of limes which in the aggregate exceeds 250 pounds, net weight, is prohibited unless:

(1) Such limes of the group known as true limes (also known as Mexican, West Indian, and Key limes and by other synonyms) meet the requirements of at least the U. S. No. 2 grade for Persian (Tahiti) limes, except as to color;

(2) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) meet the requirements of at least the U. S. Combination, Turning grade;

(3) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) are of a size not smaller than 1⅝ inches in diameter: *Provided,* That not to exceed 5 percent, by count, of the limes in any container may fail to meet this requirement;

(4) Such limes of the group known as large fruited or Persian limes (including Tahiti, Bearss, and similar varieties) which are smaller than 1⅞ inches in diameter have an average juice content of at least 48 percent, by volume: *Provided,* That such juice requirement shall not apply to containers of such limes containing not in excess of 5 percent of limes smaller than 1⅞ inches in diameter; and

(5) Each such importation is made in conformance with the general regulations (Part 1060 of this subchapter) applicable to the importation of listed commodities and the requirements of this section: *Provided,* That the provisions of § 1060.4 (e) of this subchapter shall not apply.

* * * * *

(c) Terms relating to grade and diameter shall, when used herein, have the same meaning as is given to the respective term in the United States Standards for Persian (Tahiti) Limes (§§ 51.1000 to 51.1016 of this title; 23 F. R. 4446), and all other terms shall have the same meaning as is given to the respective term in the general regulations. Copies of the aforesaid standards may be obtained upon request to any office of the Federal or Federal-State Inspection Service of this Department.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to postpone the effective time of this amendment beyond that hereinafter specified (5 U. S. C. 1001 et seq.) in that (i) the requirements of this amended import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.; 68 Stat. 906, 1047), which makes such regulation necessary; (ii) such regulation imposes the same restrictions on imports of limes as the grade, size, and quality restrictions being made applicable to the shipment of limes grown in Florida under Amendment 1 to Lime Order 6 (§ 1001.306), issued simultaneously herewith to become effective July 14, 1958; (iii) compliance with this amended import regulation will not require any special preparation which cannot be completed by the effective time hereof; (iv) notice hereof in excess of three days, the minimum that is prescribed by said section 8e, is given with respect to this amended import regulation; (v) such notice is hereby determined, under the circumstances, to be reasonable.

(Sec. 401, 68 Stat. 907, as amended; 7 U. S. C. 608e-1)

Dated: July 10, 1958, to become effective at 12:01 a. m., e. s. t., July 20, 1958.

[SEAL] S. R. SMITH,
*Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[F. R. Doc. 58-5358; Filed, July 14, 1958; 8:47 a. m.]

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## Chapter XI—Agricultural Conservation Program Service, Department of Agriculture

[ACP-1959, Supp. 1]

PART 1101—NATIONAL AGRICULTURAL CONSERVATION

SUBPART—1959

STATE FUNDS

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, and the Department of Agriculture and Farm Credit Administration Appropriation Act, 1959, the 1959 National Agricultural Conservation Program, approved July 3, 1958 (23 F. R. 5247), is hereby amended as follows:

Section 1101.1002 is amended to read as follows:

§ 1101.1002 *State funds.* (a) Funds available for conservation practices will be distributed among States on the basis of conservation needs, but the proportion allocated for use in any State shall not be reduced more then 15 percent from its proportionate 1958 distribution. The allocation of funds among the States is as follows:

| | |
|---|---|
| Alabama | $6,168,000 |
| Alaska | 59,000 |
| Arizona | 1,587,000 |
| Arkansas | 4,945,000 |
| California | 5,875,000 |
| Colorado | 3,325,000 |
| Connecticut | 499,000 |
| Delaware | 336,000 |
| Florida | 2,789,000 |
| Georgia | 7,389,000 |
| Hawaii | 186,000 |
| Idaho | 1,832,000 |
| Illinois | 8,833,000 |
| Indiana | 5,769,000 |
| Iowa | 9,683,000 |
| Kansas | 6,533,000 |
| Kentucky | 7,134,000 |
| Louisiana | 4,345,000 |
| Maine | 981,000 |
| Maryland | 1,309,000 |
| Massachusetts | 562,000 |
| Michigan | 5,149,000 |
| Minnesota | 6,235,000 |
| Mississippi | 6,622,000 |
| Missouri | 9,122,000 |
| Montana | 3,885,000 |
| Nebraska | 6,456,000 |
| Nevada | 388,000 |
| New Hampshire | 539,000 |
| New Jersey | 728,000 |
| New Mexico | 1,943,000 |
| New York | 4,746,000 |
| North Carolina | 6,595,000 |
| North Dakota | 4,566,000 |
| Ohio | 6,087,000 |
| Oklahoma | 7,401,000 |
| Oregon | 2,299,000 |
| Pennsylvania | 5,039,000 |
| Puerto Rico | 869,000 |
| Rhode Island | 83,000 |
| South Carolina | 3,642,000 |
| South Dakota | 4,756,000 |
| Tennessee | 5,290,000 |
| Texas | 20,250,000 |
| Utah | 1,378,000 |
| Vermont | 1,116,000 |
| Virgin Islands | 13,000 |
| Virginia | 4,572,000 |
| Washington | 2,457,000 |
| West Virginia | 1,587,000 |
| Wisconsin | 5,603,000 |
| Wyoming | 2,145,000 |
| Total | 211,700,000 |

(b) The apportionment shown in paragraph (a) of this section does not include the amount set aside for administrative expenses, the amount required for increases in small Federal cost-shares in § 1101.1030, and the amount set aside for the Naval Stores Conservation Program.

(Sec. 4, 49 Stat. 164; 16 U. S. C. 590d. Interprets or applies secs. 7-17, 49 Stat. 1148, as amended, 72 Stat. 192; 16 U. S. C. 590g-590q)

Done at Washington, D. C., this 7th day of July 1958.

[SEAL] E. L. PETERSON,
*Assistant Secretary.*

[F. R. Doc. 58-5385; Filed, July 14, 1958; 8:53 a. m.]

# TITLE 9—ANIMALS AND ANIMAL PRODUCTS

## Chapter I—Agricultural Research Service, Department of Agriculture

Subchapter F—Animal Breeds

PART 151—RECOGNITION OF BREEDS AND BOOKS OF RECORD OF PUREBRED ANIMALS

HORSES

On June 18, 1958, a notice of rule making was published in the FEDERAL REGISTER (23 F. R. 4383) regarding the proposed recognition by the Secretary of Agriculture of the book of record of purebred horses entitled "Holsteinisches Gestübuch", and the amendment of § 151.9 (a) of the regulations governing the recognition of breeds and books of record of purebred animals in countries other than Canada (9 CFR, 1957 Supp., 151.9 (a), as amended), to provide for such recognition and to provide that no horse registered in the said book of record will be certified by the Animal Inspection and Quarantine Division of the Agricultural Research Service, United States Department of Agriculture, as purebred unless a pedigree certificate showing three complete generations of known and recorded purebred ancestry of the Holstein breed is submitted for such animal.

After due consideration of all relevant material presented in connection with the notice, the Secretary of Agriculture, pursuant to the authority vested in him by section 201, Paragraph 1606 of the Tariff Act of 1930, as amended (19 U. S. C. and Supp., sec. 1201, par. 1606), hereby amends said § 151.9 (a) as follows:

1. There is added to the table of said section relating to horses the following book of record:

HORSES

| Name of breed | Book of record | By whom published |
|---|---|---|
| Holstein | Holsteinisches Gestütbuch. | Verband der Zuchter des Holsteiner Pferdes e. V., Elmshorn, Germany, Herr H. Horstmann, Secretary. |

2. The introductory of § 151.9 (a) is amended to read as follows:

§ 151.9 *Recognized breeds and books of record.* * * *

(a) *Breeds and books of record in countries other than Canada.* Books of the registry associations listed below are recognized for the following breeds: *Provided,* That no Belted Galloway cattle, horse of Criolla, Fjordhest (formerly known as Westland), Holstein, Shetland Pony or Welsh Pony and Cob breed, dog or cat registered in any of the books named shall be certified under the act as purebred unless a pedigree certificate showing three complete generations of known and recorded purebred ancestry of the particular breed involved, issued by the appropriate association listed below, is submitted for such animal.

* * * * *

(Par. 1606, 46 Stat. 673; 19 U. S. C. 1201, par. 1606)

The foregoing amendment shall become effective on the 15th day of July 1958.

Done at Washington, D. C., this 9th day of July 1958.

[SEAL] M. R. CLARKSON,
*Acting Administrator,*
*Agricultural Research Service.*

[F. R. Doc. 58-5361; Filed, July 14, 1958; 8:48 a. m.]

# TITLE 50—WILDLIFE

## Chapter I—Fish and Wildlife Service, Department of the Interior

Subchapter F—Alaska Commercial Fisheries

PART 104—BRISTOL BAY AREA

NAKNEK-KVICHAK DISTRICT; REDUCED FISHING TIME

JULY 14, 1958.

Basis and purpose: Field observations of escapements as well as pack figures indicate a sharp decline in the runs of the four major districts in Bristol Bay, particularly in the Naknek-Kvichak district, and it has been determined that fishing time in the Naknek-Kvichak district must be reduced in the week from July 13 to July 19, 1958, from that specified in the gear timetable of § 104.9.

1. In accordance with the requirements of § 104.9, announcement is made that the number of units of gear registered for the week July 13 to July 19, 1958, is as follows:

| | *Units* |
|---|---|
| Naknek-Kvichak | 324 |
| Nushagak | 260 |
| Egegik | 109 |
| Ugashik | 70 |

2. Notwithstanding the provisions of paragraphs (a) and (b) of § 104.9, fishing is hereby restricted in he Naknek-Kvichak district to the periods from 9 a. m. July 14 to 9 p. m. July 14 and from 9 a. m. July 17 to 9 p. m. July 17, 1958.

(Sec. 1, 43 Stat. 464, as amended; 48 U. S. C. 221)

Since immediate action is necessary if minimal escapements are to be realized, notice and public procedure on these amendments are impracticable and contrary to the public interest. Therefore, these amendments shall become effective immediately upon publication in the FEDERAL REGISTER. (60 Stat. 237; 5 U. S. C. 1001 et seq.)

A. W. ANDERSON,
*Acting Director,*
*Bureau of Commercial Fisheries.*

[F. R. Doc. 58-5465; Filed, July 14, 1958; 11:45 a. m.]

# PROPOSED RULE MAKING

## POST OFFICE DEPARTMENT

### [ 39 CFR Parts 22, 111 ]

REVISION OF INTERNATIONAL POSTAGE RATES ON SECOND CLASS MATTER

NOTICE OF PROPOSED RULE MAKING

The Department proposes, effective January 1, 1959, to adopt the following regulations respecting rates on publications acceptable as second class matter in the United States domestic service when addressed for delivery in other countries.

The proposed amendments relate to proprietary and foreign affairs functions of the Government and are therefore exempt from the rule making requirements of 5 U. S. C. 1003. However, consideration will be given to written views presented with respect to the proposed rates. Patrons desiring to submit written views or comments may send the same to Dr. I. I. Raines, Director, Postal Rates Division, Bureau of Finance, Post Office Department, Washington 25, D. C., at any time prior to August 15, 1958.

PART 22—SECOND CLASS

In § 22.1 *Second-class rates* amend paragraph (d) to read as follows:

(d) *Second-class rates to other countries*—(1) *Canada.* The following domestic rates apply:

(i) Nonadvertising portion, 2.1 cents per pound. Effective January 1, 1960, 2.3 cents per pound. Effective January 1, 1961, 2.5 cents per pound.

(ii) Advertising portion, 11 cents per pound. Effective January 1, 1960, 12.5 cents per pound. Effective January 1, 1961, 14 cents per pound.

(iii) Minimum per copy, ¼ cent. Effective January 1, 1960, ⅜ cent. Effective January 1, 1961, ½ cent.

(iv) Special rate publications: 1½ cents per pound. Minimum per copy ⅛ cent.

(2) *PUAS countries.* (i) The rates set forth in § 111.2 (d) (1) (i) (*b*), apply, except for special rate publications as described in paragraph (b) (2) of this section.

(ii) Special rate publications: 3 cents per pound. Minimum per copy, ¼ cent.

(3) *Other countries.* The rates set forth in § 111.2 (d) (1) (i) (*c*) apply.

NOTE: The corresponding Postal Manual section is 132.14.

(R. S. 161, 396, as amended, 398, as amended; 5 U. S. C. 22, 369, 372)

PART III—POSTAL UNION MAIL

In § 111.2 *Specific categories* amend subdivision (i) of paragraph (d) (1) to read as follows:

(i) Second-class matter mailed by the publishers or by registered news agents:

(*a*) To Canada: See § 22.1 (d) (1).

(*b*) To PUAS countries except Canada.

(*1*) Second-class matter other than special rate publications, as described in § 22.1 (b) (2) of this chapter, 3 cents for the first 2 ounces and 1½ cents for

each additional 2 ounces or fraction. Minimum per copy, 3 cents.

(2) Special rate publications, see § 22.1 (d) (2) (ii) of this chapter.

(c) Other countries: 4 cents for the first 2 ounces and 2 cents for each additional 2 ounces. Minimum per copy, 4 cents.

NOTE: The corresponding Postal Manual section is 221.241a.

(R. S. 161, 396, as amended, 398, as amended; 5 U. S. C. 22, 369, 372)

[SEAL] LEO G. KNOLL,
*Acting General Counsel.*

[F. R. Doc. 58-5352; Filed, July 14, 1958; 8:46 a. m.]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 987 ]

[Docket No. AO-252-A5]

### MILK IN CENTRAL MISSISSIPPI MARKETING AREA

DECISION WITH RESPECT TO PROPOSED AMENDMENTS TO TENTATIVE MARKETING AGREEMENT AND ORDER

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Jackson, Mississippi, on December 9-10, 1957, pursuant to notice thereof issued on November 22, 1957 (22 F. R. 9482).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on May 29, 1958 (23 F. R. 3870) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

1. The level of Class I and Class II prices and the months when the lower Class I differential, and the higher Class I differential should apply.

2. A review of the rules qualifying distributing and supply plants as pool plants and clarification of the order language with respect to diverted milk.

3. The pricing and pooling of a handler's own farm production.

4. Changing the rate of compensatory payment on other source milk.

5. Clarification of the order language with respect to the classification of milk.

6. The proration of allowable shrinkage between distributing and supply plants.

7. Revision of order provisions with respect to the pricing of fluid milk products in inventory.

8. Revision of the transfer provisions with respect to milk, skim milk and cream moved to nonpool plants.

9. A revision of the base plan rules.

10. A provision for the determination of equivalent price quotations.

*Findings and conclusions.* The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Class prices.* The present Class I differentials above the basic formula price should be extended through February 29, 1960. The month of July should be added to the months when the Class I differential above the basic formula price is $1.85 and the Class II differential is 10 cents above the average of the four local dairy manufacturing plants. The Class I differential for the other seven months of the year should be $2.30.

Producers requested that class prices be continued at present levels because they handle 85 to 90 percent of the supply classified as Class II. They stated the relationship of receipts from producers to Class I needs is no more than adequate. They further contended that the present differentials, above the basic formula price for Class I, were first established in the fall of 1954 to encourage a supply for a deficit market. The present supply is no more than adequate and since a lower basic formula price is anticipated the cooperative association contends that Class I price differentials should not be lowered.

Handlers generally supported the cooperative association in the retention of the present level of the Class I price. One handler, however, proposed Class I differentials of $1.65 for the months of March through July and $2.05 for all other months, contending that the supply of producer milk is more than adequate.

Marketing data for three full years are now available. The first seventeen months are a period when returns to producers were pooled on an individual-handler basis. Since April 1, 1956, producer returns have been pooled market-wide. Receipts of producer milk were 117 percent of total Class I utilization for the first twelve months (November 1954-October 1955) of the order; 140 percent, the second year, and 135 percent during the 1956-57 period. An analysis of the available data substantiates the fact that supplies are little more than adequate for the Class I needs of the market plus a reasonable reserve supply. For example, a comparison of receipts of milk to gross Class I utilization during the short production season reveals the following: During the August-November 1956 period receipts were 121 percent of gross Class I utilization. For the same period of 1957 the relationship decreased to 118 percent. The data cited above do not demonstrate that the proposal to reduce the annual level of the Class I price 20 cents per hundredweight at this time is justified.

Official notice is taken of the fact that the Secretary has been requested to consider the need of regulating the handling of milk in areas to the north and south contiguous to this marketing area.

Production is still relatively high in July, the relation of production to Class I utilization is closely related to the March-June period and producers are paid a base and excess price for milk for the months of March through July. The base-excess plan for the payments to producers is designed to encourage the production of milk according to the needs of the market. Therefore, the period when the lower seasonal Class I differential applies should coincide in this marketing area with the period when producers are paid base and excess prices. Total receipts of producer milk and the relationship of production to Class I utilization for the month of July are very similar to those for the months of March and April.

Under the current marketing conditions, the level of the Class I differentials should be maintained at the current annual average of $2.11. Changing the seasonal pricing pattern to include five months, instead of four, at the lower differential value of $1.85 would decrease the Class I price level about three cents per hundredweight. A Class I differential of $2.30 for the seven months of August through February will maintain the annual average at its present level.

The Class II price should not be changed.

Handlers proposed the Class II price be reduced 10 cents per hundredweight, March through June, and 20 cents all other months. The stated reason for this view was that a Class II price too high creates a market surplus. But present prices have not done so. The utilization of producer milk in Class II during the March-June period of 1956 averaged 35.6 percent compared to 34.4 percent for the same period of 1957.

The Mississippi Milk Producers Association handles 85 to 90 percent of the producer milk utilized as Class II. Prices received by the cooperative association for producer milk used to produce Class II products were on the average higher than order prices. It testified that it is willing and able to handle the producer milk in excess of the Class I needs of the Central Mississippi marketing area, and it excepted to the recommended decision to lower the July Class II price differential from $0.20 to $0.10. It is concluded, therefore, that no change is necessary in the Class II pricing.

2. The definition of producer should be revised with respect to milk diverted for the account of a cooperative association. The month of December should be excluded from the months when diversion privileges are limited.

Producers proposed that the order be revised to clarify the language with respect to the responsible person and point of receipt of producer milk diverted from a pool plant for the account of a cooperative association. The intent of the present order provision is to provide that milk diverted for the account of a cooperative association be deemed to be received by the cooperative association at the location of the pool plant from which diverted. Milk diverted for the account of a cooperative association is accounted for by the cooperative association in its monthly report to the market administrator. The definition of producer milk is revised to state clearly the responsible person and point of receipt of producer milk diverted from a pool plant for the account of a cooperative association. This definition should be further revised

to provide that limited diversion apply only in the months of September, October, and November, instead of during the period of September through December. Excess milk supplies during the three months of September, October, and November, normally occur only on weekends or holidays. Provision for diversion of a producer's milk on not more than 10 days during any of these three months should provide adequate opportunity for disposal of excess milk in this period. During the month of December, however, schools are closed nearly half of the period and the trade during the year and holiday season is such that the 10-day limitation on diversion may not provide adequate opportunity for disposal of excess milk. Therefore, the month of December should not be included in the group of months of limited diversion.

Handlers proposed a reduction in the requirement that a distributing plant to maintain pool status dispose of more than 50 percent of its receipts from producers and pool plants on routes as Class I. This proposal, in conjunction with the proposal of handlers to reduce the Class II price, could have the effect of encouraging the development, by some plants, of a supply of Grade A milk for Class II operations at the expense of the marketwide pool and a consequent reduction of returns to producers. The application of a Class I utilization percentage is to distinguish plants primarily engaged in producing fluid milk products from plants more engaged in the production of manufactured dairy products. It was on this basis that the present 50 percent rule was determined. The evidence does not justify a change at this time. The proposal is denied.

Handlers further proposed that the month of December be removed from the August through January period during which supply plants are required to ship each month to distributing plants 50 percent or more of their receipts from producers in order to qualify as pool plants. The receipts of producer milk to Class I sales, for the six-month period August through January, was 123 percent in 1956 and 119 percent in 1957. During the month of December 1956, the relation of receipts to sales was 119 percent and in December 1957, 122 percent. During the last two years the utilization in December was little different from the average of the six-month period of lower production. Therefore, on the basis of the facts in this record no change should be made in the requirements which determine whether a supply plant is associated with this market. The requirement that a supply plant should ship 50 percent or more of its receipts from dairy farmers to a distributing plant each month, August through January, should be continued.

3. No change should be made with respect to the pricing and pooling of a handler's own production.

The proponent contended that the pricing and pooling of a handler's own production is unfair, unjust and inequitable. The proponent further questioned the intent of Congress, with respect to this matter, in the provisions of the Agricultural Marketing Agreement Act of 1937.

The evidence fails to show that marketing conditions in this area have changed since the Secretary issued his decision of March 25, 1957 (22 F. R. 2049). In that decision it was concluded that a handler distributing only fluid milk products from his own production should be exempt from the pricing and pooling provisions of this order. The decision, however, required the pricing and pooling of a handler's own production whenever such a handler purchases milk from producers, other handlers, and other sources.

It is therefore concluded that, on the basis of this record, no change should be made in the definitions of handler and producer-handler or in other provisions that would alter the pricing and pooling of a handler's own production as presently provided by the order.

4. The application of compensatory payments with respect to (1) unpriced milk allocated to Class I in a pool plant, and (2) fluid milk products distributed in the marketing area from a nonpool plant, should be revised.

The order presently provides for the months of March through August, a rate of compensatory payment on all other source milk, at the difference between the class prices. For the months of September through February, the rate is the difference between the Class I price and the uniform price.

It was proposed by producers that the rates of compensatory payment remain the same as in the order at this time, but that the application of rates be determined by the relationship between the receipts of producer milk and gross Class I utilization each month rather than seasonally by months as presently provided in the order. The proposal would require compensatory payments when receipts of producer milk at all pool plants are 112 percent or more of the total gross Class I utilization. The rate of payment would be the difference between the class prices. A lesser rate of the difference between the Class I price and the uniform price would apply when producer receipts are less than 112 percent of gross Class I use.

At the time the order was amended to include compensatory payments on unpriced milk, the supply of producer milk in the Central Mississippi marketing area was not sufficient to meet, on a year-around basis, the Class I needs of the market, plus a reasonable reserve supply. Producer receipts for November and December 1954 were only 88.4 percent and 103 percent, respectively, of gross Class I utilization. The receipts of producer milk during the September-December 1955 period ranged from 102 percent to 109 percent of total Class I use. During the September-December periods in 1956 and 1957, however, receipts of producer milk averaged 119 and 117 percent, respectively, of the total Class I use of the market. The lowest percentage during any of these eight months was nearly 111.

The production of producer milk in 1956 and 1957 was approximately 20 percent higher in the two flush months than during the two months of least production. Class I sales varied seasonally also during these same two years and were approximately 35 percent greater in the two months of highest sales each year than in the two months of least sales.

Handlers have reported receipts of other source milk each month since the order became effective and substantial quantities of such milk have been allocated each month to Class I in the pool plants of handlers except for the months of May, June, and July 1956 when no other source milk was received. It is a trade practice in this area to reconstitute and use on a year-around basis, substantial amounts of manufactured dairy products, such as nonfat dry milk, for distribution as fluid milk products. The record does not show the amounts, if any, of other source milk that may be received in the form of bulk fluid milk.

The cost and opportunity to purchase such nationally manufactured dairy products on the part of regulated handlers is relatively stable throughout the year. Therefore, any compensatory payment applied to such other source milk allocated to Class I should be at a single rate regardless of the time of year—to do otherwise would weaken the classified pricing system and undermine Class I prices. The Class II price under the order is a fair and economic measure of the cost of such other source milk used for Class I products in this market; for handlers pay this price for any producer milk used to produce such manufactured products.

In light of the data accumulated during the past three years, and under existing marketing conditions, no compensatory payment should be required on unpriced milk allocated to Class I in the pool plant of a handler when the supply of producer milk is such that a handler may need to depend on a supply of other source milk in the form of fresh fluid milk to meet his Class I needs. A reasonable criterion by which to determine when compensatory payments should apply is the relationship of the receipts of producer milk to total Class I use. Although the procurement and distribution of milk involves rather extensive geographical areas, the principal cooperative in this marketing area has demonstrated its ability and willingness to move the supply of producer milk to pool plants that need such milk for Class I use. Thus, under the present marketing conditions a minimum reserve of producer milk approximately ten percent above Class I needs of the area may be considered fair and reasonable to assure handlers a supply of producer milk at all times for their Class I needs.

When handlers are assured an adequate supply, plus a reasonable reserve, of producer milk for their Class I needs compensatory payments should apply on any other source milk allocated to Class I in the pool plant(s) of such handlers. The rate already established in the order, in months when supplies are normally in excess of needs, should apply. This rate is the difference between the two

class prices. Compensatory payments, under the provisions recommended herein, would apply any month regardless of the time of year when the supply of producer milk is in excess of 110 percent of the total Class I utilization. Likewise in times of short supply, regardless of the month, compensatory payments would not apply.

In the case of a handler whose plant fails to qualify as a distributing plant but who has sales of fluid milk products on routes in the marketing area, such handler also should under certain conditions be required to make payments to the producer-settlement fund. The amount of these payments would be the lesser of (1) the difference between the Class I and Class II price multiplied by the amount of Class I milk sold in the marketing area, or (2) the amount by which total payments to dairy farmers are less than the total amount of the plant's obligation to producers if such obligation is computed as if such plant were a pool plant.

If the handler elects to make payments under the first option, the regulatory plan will be protected in the same manner and to the same extent as is provided with respect to compensatory payments on other source milk. If the handler chooses to pay the full utilization value of his milk either directly to his own farmers or by combination of payments to his farmers and to the producer-settlement fund, his total minimum obligation for milk will be determined in exactly the same way as if he were a fully regulated handler.

Affording this last option to nonpool plants from which some Class I milk is distributed in the marketing area will adequately protect the classified pricing and marketwide equalization plan in this particular market. The number and size of handlers in a position to use this option are relatively small. Actual or potential operations of handlers in a position to use this option to obtain an advantage over fully regulated handlers in the procurement of milk supplies are not of sufficient magnitude to defeat the purposes of marketwide equalization or otherwise preclude maintenance of orderly marketing conditions in this market. Handlers in a position to use this option do not exist to an extent permitting any significant diversion of the revenue derived from Class I sales in the marketing area to farmers only incidentally associated with the market, thus dissipating the return to pool producers of milk for which minimum class prices are established under the order and who are relied upon to produce an adequate and dependable supply of approved milk for the marketing area.

It is expected also that in this market the differences between Class I and uniform prices will be relatively small resulting from anticipated relatively high Class I utilization of pool milk. Accordingly, it is expected that there will be relatively small differences between the price which these partially regulated handlers will be required under the option to pay to their farmers and the minimum uniform price payable to producers by fully regulated handlers. Consequently, the exercise of this option could not have a disruptive influence on the handling of milk in this area. For these reasons, it is not necessary, in order to maintain the integrity of the regulatory plan in this particular market, to require these partially regulated plants to make payments into the producer-settlement fund if it is ascertained that they have paid their producers at least the total amount of money which they would be required to pay if they were fully regulated.

The nonpool handler should also pay his pro rata share of the costs of administration of the order. Complete verification of receipts, utilization and payments is required if such a handler is to be given credit for payments as related to the classified use value of skim milk and butterfat received. Accordingly, administrative expense should be determined on the same basis as for fully regulated plants. Should a handler operating a nonpool distributing plant elect when filing his report to make payments to the pool at the difference between the Class I and Class II prices with respect to sales in the marketing area, the expenses of administration will be assessed only with respect to such sales, since need for verification will then be confined to only that volume.

Compensatory payments should not apply to milk entering the marketing area from a plant regulated under another order since its proper classification and pricing will be determined pursuant to the other order.

5. The order language with respect to the classification of milk should be clarified.

A handler proposed that the classification provisions should be clarified by specifically excluding ice milk mixes, frozen ice milk, and frozen desserts from Class I. The adoption of this proposal would make no changes in the classification of milk under the order but would merely constitute a clarification by naming the related products covered by the Mississippi dairy laws and regulations with respect to ice cream, ice cream mixes, frozen desserts, and ice milk. The proposal should be adopted.

6. The method of determining allowable shrinkage should be changed.

The order presently provides for the assignment of shrinkage at the pool plant where the producer milk is received directly from producers. The maximum shrinkage allowed is 2 percent of all receipts. It was proposed that the allowable shrinkage should be prorated at the rate of 0.5 percent to the supply plant and 1.5 percent to the distributing plant when milk is moved in bulk from a supply plant to a distributing plant. This proposal would not change, as compared to present order provisions, the total percent of allowable shrinkage.

Proration of shrinkage as proposed provides a reasonable and equitable treatment of the shrinkage allowance. Handlers and producers supported this proposal to prorate shrinkage between distributing and supply plants. The proposal should be adopted.

7. The order provisions with respect to the pricing of fluid milk products in inventory should not be changed.

It was proposed by a handler that fluid milk products in inventory should be separately classified and priced at $4.00 per hundredweight. The stated reason for the proposal was to provide for the pricing of skim milk and butterfat in fluid milk products, held in inventory, during the month of actual utilization.

The order presently requires the reporting of fluid milk products in inventory as Class I. It is further provided in the determination of the uniform price that for the month of July an amount should be added by multiplying by 40 cents the hundredweight by which the inventory classified for the preceding month exceeds any inventory so classified for the preceding February.

The net effect of the present order provisions is to classify fluid milk products in inventory at the Class I price adjusted each July by any excess in such inventory between the end of February and June. March through June is the period when the seasonal Class I differential above the basic formula price is 40 cents less than other months. This adjustment provides an equitable means of handling any increase in inventory of fluid milk products from the beginning to the end of the lower seasonal pricing period.

Inasmuch as the Class I percentage of utilization of producer milk in this market is very high, fluid milk products held in inventory will be utilized mostly as Class I. The present provisions of the order for the classification and pricing of fluid milk products in inventory are adequate and equitable. It is concluded, therefore, that the only revision necessary in these provisions is to change July to August in § 987.70 (f). Such a modification will conform with the changes, recommended herein, with respect to Class I prices.

8. Provisions for the classification of milk, skim milk, and cream moved to nonpool plants should be revised.

A nonpool plant located at Brookhaven, Mississippi, receives milk from plants regulated by this order and by Order No. 42 regulating the handling of milk in the New Orleans marketing area. Milk transferred to such a nonpool plant should be classified in an equitable manner under each of the orders involved. There is need for uniformity in order provisions with respect to the classification of milk at a nonpool plant receiving milk from plants regulated by different Federal orders. This can be accomplished by providing the same provisions in each of the orders involved. Order No. 42, regulating the New Orleans marketing area, was amended effective December 1, 1957, to meet this specific situation. Under this amendment, any milk, skim milk, or cream received at a nonpool plant that is classified as Class I is shared pro rata by the pool plants under this order and by any plant(s) at which milk is priced under another order(s).

No opposition was offered to this method of classification. The amendment will facilitate the movement of milk in excess of market needs in the usual channels available to the market. The amendment provided herein will provide

for the proration, between pool plants of this and other orders, of any skim milk or butterfat classified as Class I at a nonpool plant receiving producer milk from pool plants under this and another Federal order(s).

9. The base plan rules should be revised.

One proposal would provide that bases should be assigned to dairy farmers who become producers under the order as a result of a plant becoming a pool plant by meeting the required distributing or supply plant qualifications or by the extension of the marketing area.

A distributing plant must sell 50 percent or more of its receipts from producers and other pool plants on routes as fluid milk products and 20 percent or more of such receipts on routes in the marketing area to qualify as a pool plant. Any supply plant failing to qualify as a pool plant during the required period must ship 50 percent or more of its receipts from dairy farmers to a pool distributing plant each month to again qualify as a pool plant. A plant that meets the pool plant requirements during the February through July period, is sufficiently associated with this market to justify the assignment of bases to producers delivering to such plant. To fail to do so would be discriminatory. This provision will permit these producers to share equally with all other producers in the returns for milk.

The rules governing the transfer of bases from one producer to another should be clarified.

Under certain conditions, bases may be transferred from one producer to another. Without an administrative determination it would be possible through the manipulation of ownership during the base-forming period to increase the combined bases of such producers in excess of the base which would be earned by their combined milk production during the base-forming period. The intent of the order is to provide a means of determining a base for each producer in accordance with the actual receipts of milk at pool plants during the base-forming period. To accomplish this intent under conditions where bases are transferred, the total base should be determined by adding together the milk deliveries of the transferee and transferor during the base-forming period and dividing this total by the number of days from the first day milk was received from either producer during the base-forming period to the last day of such period but not less than 120. This proposed revision of the base rules conforms with the practices followed in this market.

10. A provision for the determination of equivalent price quotations should be included in the order.

Such a provision is designed to meet an emergency situation in which a price quotation necessary in the determination of class prices, or for any other purposes, may not be available. In such event, the Secretary would determine a price equivalent to the price quotation normally available. The provision proposed will remove uncertainty as to the procedure to be followed in the absence of any price quotation provided for in the order and thereby will prevent unnecessary interruption in the administration of the order.

The entire order is redrafted to incorporate conforming provisions in the order to accommodate the recommended changes made herein.

*Rulings on proposed findings and conclusions.* Briefs and proposed findings and conclusions were filed on behalf of certain interested parties in the market. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

*General findings.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(b) The parity prices of milk as determined pursuant to section 2 of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Rulings on exceptions.* In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

*Marketing agreement and order.* Annexed hereto and made a part hereof are two documents entitled, respectively, "Marketing Agreement Regulating the Handling of Milk in the Central Mississippi Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Central Mississippi Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered,* That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

*Determination of representative period.* The month of April 1958, is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Central Mississippi marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Issued at Washington, D. C., this 9th day of July 1958.

[SEAL] DON PAARLBERG,
*Assistant Secretary.*

*Order[1] Amending the Order Regulating the Handling of Milk in the Central Mississippi Marketing Area*

§ 987.0 *Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central Mississippi marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the

[1] This order shall not become effective unless and until the requirements of § 900.14 of this chapter governing proceedings to formulate marketing agreements and marketing orders have been met.

act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Central Mississippi marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

DEFINITIONS



MARKET ADMINISTRATOR



REPORTS, RECORDS, AND FACILITIES



CLASSIFICATION



MINIMUM PRICES



APPLICATION OF PROVISIONS



DETERMINATION OF UNIFORM PRICE



BASE RATING



PAYMENTS



EFFECTIVE TIME, SUSPENSION, OR TERMINATION



MISCELLANEOUS PROVISIONS



DEFINITIONS

§ 987.1 *Act.* "Act" means Public Act No. 10, 73d Congress, as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U. S. C. 601 et seq.).

§ 987.2 *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the United States authorized to exercise the powers or to perform the duties of the said Secretary of Agriculture.

§ 987.3 *Department of Agriculture.* "Department of Agriculture" means the United States Department of Agriculture or any other Federal agency authorized to perform the price reporting functions specified in this part.

§ 987.4 *Person.* "Person" means any individual, partnership, corporation, association, or other business unit.

§ 987.5 *Cooperative association.* "Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 987.6 *Central Mississippi marketing area.* "Central Mississippi marketing area" hereinafter called the "marketing area" means all the territory within the following counties: Adams, Claiborne, Clarke, Copiah, Covington, Forrest, Franklin, Hinds, Jasper, Jefferson, Jefferson Davis, Jones, Lamar (except Beat 2 thereof), Lauderdale, Lawrence, Lincoln, Madison, Marion, Neshoba, Newton, Perry, Rankin, Scott, Simpson, Smith, Walthall, Warren and Wayne, all in the State of Mississippi.

§ 987.7 *Distributing plant.* "Distributing plant" means an approved plant from which Class I milk equal to not less than 50 percent of its receipts of producer milk and fluid milk products from other pool plants is disposed of during the month, on routes or through plant stores, to wholesale or retail outlets (except pool plants) and from which not less than 20 percent of such Class I milk is disposed of during the month on routes or through plant stores, to wholesale or retail outlets (except pool plants) located in the marketing area.

§ 987.8 *Supply plant.* "Supply plant" means an approved plant from which during the month an amount equal to 50 percent or more of receipts of its producer milk is shipped to and received at distributing plants. Any supply plant that was a pool plant during each of the months of August through January immediately preceding shall be a pool plant each of the months of February through July unless written notice to the market administrator is received before the first day of the month of its intention to withdraw, in which case such plant shall thereafter be a nonpool plant, unless it again qualifies as a supply plant by shipping 50 percent or more of its receipts from dairy farmers to a plant described in § 987.7.

§ 987.9 *Pool plant.* "Pool plant" means either a distributing plant or a supply plant, except a plant operated by a producer-handler.

§ 987.10 *Nonpool plant.* "Nonpool plant" means any milk manufacturing or processing plant other than a pool plant.

§ 987.11 *Approved plant.* "Approved plant" means all of the buildings, premises and facilities of a plant(s) in which milk or skim milk is processed or packaged and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors and sales through plant stores) to wholesale or retail outlets (except milk distributing or processing plants) located in the marketing area, or (b) from which milk or skim milk eligible for distribution in the marketing area under a Grade A label is shipped during the month to a distributing plant.

§ 987.12 *Handler.* "Handler" means:

(a) A cooperative association with respect to milk of producers diverted for the account of such association from a pool plant to a nonpool plant in accordance with the provisions of § 987.13; or

(b) Any person in his capacity as the operator of one or more approved plants.

§ 987.13 *Producer.* "Producer" means any person, other than a producer-handler, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received during the month at a pool plant or is diverted from a pool plant to a nonpool plant, except plants under another order, for the account of a handler operating a pool plant or a cooperative association but for not more than 10 days production during the months of September,

October, and November. Milk diverted for the account of the operator of a pool plant shall be deemed to have been received at the plant from which diverted, and milk diverted for the account of a cooperative association shall be deemed to have been received by the cooperative association at the location of the pool plant from which it was diverted.

§ 987.14 *Producer milk.* "Producer milk" means only the skim milk or butterfat contained in milk (a) received at a pool plant(s) directly from producers, or (b) diverted from a pool plant to a nonpool plant (except a nonpool plant which is fully subject to the pricing provisions of another order issued pursuant to the act) in accordance with the provisions of § 987.13.

§ 987.15 *Other source milk.* "Other source milk" means all skim milk and butterfat contained in: (a) Receipts during the month of fluid milk products except (1) fluid milk products received from pool plants, and (2) producer milk; and (b) products, other than fluid milk products, from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 987.16 *Producer-handler.* "Producer-handler" means any person who operates a dairy farm and a distributing plant which, during the month, received no other source milk (except own production), producer milk, or milk from a pool plant.

§ 987.17 *Chicago butter price.* "Chicago butter price" means the simple average, as computed by the market administrator of the daily wholesale selling prices (using the midpoint of any range as one price) per pound of 92-score bulk creamery butter at Chicago as reported during the month by the Department of Agriculture.

§ 987.18 *Fluid milk product.* "Fluid milk product" means all skim milk (including concentrated and reconstituted skim milk) and butterfat in the form of milk, skim milk, buttermilk, flavored milk, flavored milk drinks (including eggnog), yogurt, cream (other than frozen storage cream), cultured sour cream, and any mixture of cream and milk or skim milk (other than ice cream, ice cream mixes, frozen ice milk, ice milk mixes, frozen desserts and mixes, and sterilized products contained in hermetically sealed containers).

MARKET ADMINISTRATOR

§ 987.20 *Designation.* The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 987.21 *Powers.* The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate, and report to the Secretary, complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 987.22 *Duties.* The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including, but not limited to, the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon, satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 987.95, the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 987.94, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and, upon request by the Secretary, surrender the same to such other person as the Secretary may designate;

(f) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(g) Audit all reports and payments by each handler by inspection of such handler's records and of the records of any other handler or person upon whose utilization the classification of skim milk or butterfat for such handler depends;

(h) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports pursuant to §§ 987.30 and 987.31, or payments pursuant to § 987.90, and §§ 987.93 to 987.98;

(i) Publicly announce, by posting in a conspicuous place in his office and by such other means as he deems appropriate, and notify each handler in writing:

(1) On or before the 6th day of each month, the minimum price for Class I milk computed pursuant to § 987.51 (a) and the Class I butterfat differential computed pursuant to § 987.52 (a), both for the current month, and the minimum price for Class II milk computed pursuant to § 987.51 (b) and the Class II butterfat differential computed pursuant to § 987.52 (b), both for the previous month;

(2) On or before the 10th day after the end of each of the months of August through February, the uniform price computed pursuant to § 987.71, and the butterfat differential computed pursuant to § 987.91; and

(3) On or before the 10th day after the end of each of the months of March through July, the uniform prices for base milk and for excess milk computed pursuant to § 987.72, and the butterfat differential computed pursuant to § 987.91;

(j) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association, which was used in each class by each handler receiving such milk. For the purpose of this report, the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by each handler; and

(k) Prepare and disseminate to the public such statistics and such information as he deems advisable and as do not reveal confidential information.

REPORTS, RECORDS, AND FACILITIES

§ 987.30 *Reports of receipts and utilization.* On or before the 6th day after the end of each month, each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator for each of his approved plants for such month as follows:

(a) The quantities of skim milk and butterfat contained in receipts of producer milk; and for the months of March through July, the total quantity of base milk received;

(b) The quantities of skim milk and butterfat contained in fluid milk products received from other pool plants;

(c) The quantities of skim milk and butterfat contained in other source milk;

(d) Inventories of fluid milk products on hand at the beginning and end of the month; and

(e) The utilization of all skim milk and butterfat required to be reported pursuant to this section, including a separate statement of the disposition of Class I milk outside the marketing area.

§ 987.31 *Other reports.* (a) Each producer-handler shall make reports to the market administrator at such time and in such manner as the market administrator may prescribe.

(b) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month for each of his fluid milk plants, his producer payroll for such month, which shall show for each producer: (i) His name and address, (ii) the total pounds of milk received from such producer, including for the months of March through July, the total pounds of base and excess milk, (iii) the number of days on which milk was received from such producer if less than a full calendar month, (iv) the average butterfat content of such milk, and (v) the net amount of such handler's payment, together with the price

paid and the amount and nature of any deductions;

(2) On or before the first day other source milk is received in the form of milk, fluid skim milk, or cream at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such milk;

(3) On or before the day prior to diverting producer milk pursuant to § 987.13, his intention to divert such milk, the date(s) of such diversion and the nonpool plant to which such milk is to be diverted; and

(4) Such other information with respect to the utilization of butterfat and skim milk as the market administrator may prescribe.

(c) Each handler who receives producer milk for which payment is to be made to a cooperative association pursuant to § 987.90 (e) shall report to such cooperative association with respect to each such producer, as follows:

(1) On or before the 20th day of each month, the total pounds of milk received during the first 15 days of the month,

(2) On or before the 10th day after the end of each month:

(i) The daily and total pounds of milk received during the month with separate totals for base and excess milk for the months of March through July, and the average butterfat test thereof; and

(ii) The amount or rate and nature of any deductions.

§ 987.32 *Records and facilities.* Each handler shall maintain and make available to the market administrator during the usual hours of business, such accounts and records of his operations, together with such facilities as are necessary for the market administrator to verify or establish the correct data for each month with respect to:

(a) The receipt and utilization of all skim milk and butterfat handled in any form;

(b) The weights and butterfat and other content of all milk, skim milk, cream, and other milk products handled;

(c) The pounds of skim milk and butterfat contained in or represented by all milk, skim milk, cream, and milk products on hand at the beginning and end of each month; and

(d) Payments to producers, including any deductions authorized by producers, and disbursement of money so deducted.

§ 987.33 *Retention of records.* All books and records required under this part to be made available to the market administrator, shall be retained by the handler for a period of three years to begin at the end of the calendar month, to which such books and records pertain: *Provided,* That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c (15) (A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. In either case, the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 987.40 *Skim milk and butterfat to be classified.* All skim milk and butterfat received within the month at pool plants and which is required to be reported pursuant to § 987.30 shall be classified by the market administrator pursuant to the provisions of §§ 987.41 to 987.46.

§ 987.41 *Classes of utilization.* Subject to the conditions set forth in §§ 987.43 and 987.44, the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk (including concentrated and reconstituted skim milk) and butterfat:

(1) Disposed of in fluid milk products;

(2) Contained in inventory of milk and milk products designated as Class I milk pursuant to subparagraph (1) of this paragraph on hand at the end of the month; and

(3) Not accounted for as Class II milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than those designated as Class I milk pursuant to paragraph (a) of this section;

(2) Disposed of and used for livestock feed;

(3) Contained in skim milk dumped, provided the market administrator is notified in advance and given opportunity to verify such dumping; and

(4) In shrinkage, but in an amount not to exceed one-half percent of the total pounds of skim milk and butterfat received directly from producers plus 1½ percent of the total pounds of skim milk and butterfat in bulk milk, skim milk, and cream in fluid form received at a pool plant from all sources less that disposed of in bulk to a pool plant of another handler.

§ 987.42 *Assignment of shrinkage.* The market administrator shall assign shrinkage at the pool plant(s) of each handler as follows:

(a) Compute the shrinkage of skim milk and butterfat classified as Class II milk; and

(b) Assign the resulting amounts pro rata to the handler's receipts of skim milk and butterfat, respectively, in (1) producer milk and milk received from other pool plants, and (2) other source milk.

§ 987.43 *Responsibility of handlers and reclassification of milk.* (a) All skim milk and butterfat shall be Class I milk unless the handler who first receives such skim milk or butterfat can prove to the market administrator that such skim milk or butterfat should be classified otherwise;

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 987.44 *Transfers.* Skim milk or butterfat disposed of each month from a pool plant shall be classified:

(a) As Class I milk if transferred in the form of fluid milk products to the pool plant of another handler unless utilization as Class II milk is claimed by both handlers in their reports submitted for the month to the market administrator pursuant to § 987.30, subject in any event to the conditions set forth in subparagraph (1) of this paragraph:

(1) (i) In no event shall the skim milk or butterfat assigned to Class II milk exceed the amount thereof remaining in Class II milk in the plant(s) of the transferee handlers after subtraction of other source milk pursuant to § 987.46, and any additional amounts of such skim milk or butterfat shall be classified as Class I milk; and

(ii) If either or both handlers have other source milk during the month, the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I milk utilization to producer milk of both handlers; and

(b) As Class I milk if transferred or diverted in the form of bulk milk, skim milk or cream to a nonpool plant unless:

(1) The transferring handler claims Class II use on his report for the month;

(2) The operator of the nonpool plant maintains books and records which are made available for examination upon request by the market administrator and which are adequate for verification of such Class II use; and

(3) The skim milk and butterfat, respectively, received at the nonpool plant during the month from a pool plant(s) and from a plant(s) at which milk is priced pursuant to another order issued pursuant to the act does not exceed the skim milk and butterfat, respectively, resulting from the following computation:

(i) Determine the skim milk and butterfat, respectively, used to produce any items of Class II milk (as defined pursuant to § 987.41 (b)) at such nonpool plant during the month;

(ii) Add the skim milk and butterfat respectively, in fluid bulk cream transferred from such nonpool plant to a plant at which milk is priced pursuant to this or another order issued pursuant to the act and such cream is allocated to other than Class I milk (under the applicable order definitions at the transferee plant).

(iii) Add the skim milk and butterfat, respectively, in fluid bulk cream transferred from such nonpool plant to a second nonpool plant which is not in excess of the items of Class II milk processed in such second nonpool plant plus the bulk fluid cream shipped from such second nonpool plant to other nonpool plants which do not dispose of milk or cream for consumption in fluid form: *Provided,* That the second nonpool plant meets the conditions of subparagraph (2) of this paragraph; and

(iv) Subtract the skim milk and butterfat, respectively, received at such nonpool plant from any source(s) other than that which has been approved by a governmental agency as a source(s) of fluid Grade A milk products.

In the event that the remaining skim milk and butterfat, respectively, computed pursuant to subdivision (iv) of this subparagraph is less than the skim milk and butterfat, respectively, received at such nonpool plant from a pool plant(s) and from a plant(s) at which milk is priced pursuant to another order issued pursuant to act, the difference shall be assigned pro rata, to each pool plant (in accordance with receipts of skim milk and butterfat, respectively, from all plants regulated pursuant to the act), and shall be classified as Class I milk.

§ 987.45 *Computation of the skim milk and butterfat in each class.* For each month, the market administrator shall correct for mathematical and for other obvious errors the reports of receipts and utilization for the pool plant(s) of each handler and shall compute the pounds of butterfat and skim milk in Class I milk and Class II milk for such handler: *Provided,* That if any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk disposed of in such product shall be considered to be an amount equivalent to the nonfat dry milk contained in such product, plus all of the water originally associated with such solids.

§ 987.46 *Allocation of skim milk and butterfat classified.* (a) The pounds of skim milk remaining in each class after making the following computations each month, with respect to the pool plant(s) of each handler, shall be the pounds of skim milk in such class allocated to the producer milk of such handler for such month:

(1) Subtract from the total pounds of skim milk in Class II milk the pounds of skim milk assigned to producer milk pursuant to § 987.42 (b);

(2) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in other source milk, except that to be subtracted pursuant to subparagraph (3) of this paragraph: *Provided,* That if the pounds of skim milk in other source milk exceed the remaining pounds of skim milk in Class II milk, an amount equal to the difference shall be subtracted from the pounds of skim milk in Class I milk;

(3) Subtract from the pounds of skim milk remaining in Class II milk, the pounds of skim milk in fluid milk products received from plants regulated pursuant to other orders issued pursuant to the act, less any equivalent amounts of skim milk in other source milk allocated to Class I milk at each of such plants, respectively: *Provided,* That if the pounds of skim milk to be subtracted exceed the remaining pounds of skim milk in Class II milk, the balance shall be subtracted from the pounds of skim milk in Class I milk;

(4) Subtract from the remaining pounds of skim milk in Class I milk, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(5) Subtract from the remaining pounds of skim milk in each class the skim milk contained in fluid milk products received from the pool plants of other handlers, according to the classification of such skim milk as determined pursuant to § 987.44 (a);

(6) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph; and

(7) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk contained in producer milk subtract such excess from the remaining pounds of skim milk in series beginning with Class II milk. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section; and

(c) Determine the weighted average butterfat content of the Class I and Class II milk allocated to producer milk.

MINIMUM PRICES

§ 987.50 *Basic formula price.* The highest of the prices computed pursuant to paragraphs (a), (b) and (c) of this section, rounded to the nearest whole cent, shall be known as the basic formula price:

(a) Divide the average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture, by 3.5 and multiply by 4.0.

*Present Operator and Location*

Borden Co., Mount Pleasant, Mich.
Carnation Co., Sparta, Mich.
Pet Milk Co., Wayland, Mich.
Pet Milk Co., Coopersville, Mich.
Borden Co., Orfordville, Wis.
Borden Co., New London, Wis.
Carnation Co., Richland Center, Wis.
Carnation Co., Oconomowoc, Wis.
Pet Milk Co., New Glarus, Wis.
Pet Milk Co., Belleville, Wis.
White House Milk Co., Manitowoc, Wis.
White House Milk Co., West Bend, Wis.

(b) The price computed by adding together any plus values computed pursuant to subparagraphs (1) and (2) of this paragraph:

(1) Multiply the Chicago butter price by 4.8; and

(2) Deduct five cents from the simple average as computed by the market administrator, of the weighted averages of carlot prices per pound of nonfat dry milk, spray and roller process, respectively for human consumption, f. o. b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month, by the Department of Agriculture, and multiply by 7.5; and

(c) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 4.0 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or to the Department of Agriculture:

*Present Operator and Location*

Kraft Cheese Co., Newton, Miss.
Borden Co., Starksville, Miss.
Carnation Co., Tupelo, Miss.
Pet Milk Co., Kosciusko, Miss.

§ 987.51 *Class prices.* Subject to the provisions of §§ 987.52 and 987.53, the minimum prices per hundredweight for the month shall be as follows:

(a) *Class I milk price.* Through February 29, 1960, the minimum price per hundredweight shall be the basic formula price for the preceding month, plus $1.85 during the months of March through July and plus $2.30 during all other months;

(b) *Class II milk price.* The price per hundredweight for Class II milk shall be the price determined pursuant to § 987.50 (c) plus 10 cents during each of the months of March through June and plus 20 cents during all other months.

§ 987.52 *Butterfat differential to handlers.* For milk containing more or less than 4.0 percent butterfat, the class prices calculated pursuant to § 987.51 shall be increased or decreased, respectively, for each one-tenth percent butterfat at the appropriate rate determined as follows:

(a) *Class I price.* Multiply the Chicago butter price for the preceding month by 0.12; and

(b) *Class II price.* Multiply the Chicago butter price for the month by 0.11.

§ 987.53 *Location differentials to handlers.* For that milk which is received from producers at a pool plant located 50 miles or more from the city limits of Hattiesburg, Jackson, Meadville or Meridian, Mississippi, whichever is closest by the shortest hard-surfaced highway distance as determined by the market administrator, and which is transferred in the form of fluid milk products to another pool plant and assigned to Class I pursuant to the proviso of this section, or otherwise classified as Class I milk, the price specified in § 987.51 (a) shall be reduced at the rate set forth in the following schedule:

| Distance from the city limits of Hattiesburg, Jackson, Meadville or Meridian, Miss. (miles): | *Rates per hundredweight (cents)* |
|---|---|
| 50 but not more than 60 | 10.0 |
| For each additional 10 miles or fraction thereof, an additional | 1.5 |

*Provided,* That, for the purposes of calculating such location differential, products so designated as Class I milk which are transferred between pool plants shall be assigned to any remainder of Class II milk in the transferee-plant after making the calculations prescribed in § 987.46 (a) (1), (2), and (3), and the comparable steps in § 987.46 (b) for such plant, and after deducting from such remainder an amount equal to 0.05 times the skim milk and butterfat contained in the producer milk received at the transferee-plant, such assignment to transferor-plants to be made first to plants which the location differential is applicable.

§ 987.54 *Rate of compensatory payments.* In any month in which total deliveries of producer milk exceed 110 percent of the total amount classified as

Class I (excluding duplications) at all pool plants, the rate of compensatory payment per hundredweight shall be calculated as follows:

(a) Subtract the Class II price, adjusted by the Class II butterfat differential, from the Class I price adjusted by the Class I butterfat differential and adjust such difference by the location differential rate set forth in § 987.52 for the location of the plant at which the milk was received from farmers.

§ 987.55 *Use of equivalent prices.* If, for any reason, a price specified in this part for use in computing class prices or for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price determined by the Secretary to be equivalent to or comparable with the price specified.

APPLICATION OF PROVISIONS

§ 987.60 *Producer-handlers.* Sections 987.40 to 987.46, 987.50 to 987.54, 987.61, 987.62, and 987.70 to 987.72, 987.80 to 987.83, and 987.90 to 987.98 shall not apply to a producer-handler.

§ 987.61 *Plants subject to other Federal orders.* The provisions of this part shall not apply to a plant specified in paragraph (a) or (b) of this section except as follows: The operator of such plant shall, with respect to the total receipts and utilization or disposition of skim milk and butterfat at the plant, make reports to the market administrator at such time and in such manner as the market administrator may require and allow verification of such reports by the market administrator.

(a) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless a greater volume of Class I milk is disposed of during the month from such plant to retail or wholesale outlets (except pool plants) in the Central Mississippi marketing area than in the marketing area regulated pursuant to such other order: *Provided,* That, if such distributing plant disposed of Class I milk during the month in the marketing areas of more than one other Federal order, the marketing area in which the most Class I milk is disposed shall determine the Federal order under the provisions of which such plant shall be regulated; and

(b) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless such plant qualified as a pool plant pursuant to § 987.8.

§ 987.62 *Obligations of a handler operating a nonpool distributing plant.* Each handler who operates during the month a nonpool distributing plant shall pay to the market administrator for deposit in the producer settlement fund and the administrative assessment fund, as the case may be, as follows:

(a) If such handler so elects in writing at the time of reporting pursuant to § 987.30, the amounts computed as follows:

(1) On or before the 15th day after the end of the month, for the producer settlement fund, an amount equal to the difference between the value of the Class I milk disposed of during the month on routes in the marketing area at the applicable Class I price for the month and the value of such milk at the Class II price; and

(2) On or before the 15th day after the end of the month, as his pro rata share of expense of administration, the rate specified in § 987.95 with respect to Class I milk disposed of on routes in the marketing area; and

(b) Except as the handler's obligation may be computed pursuant to paragraph (a) of this section, he shall pay the amounts as follows:

(1) On or before the 25th day after the end of the month, for the producer settlement fund, the amount specified in paragraph (a) (1) of this section, or any plus amount resulting from the following computation, whichever is less:

(i) Determine the value for milk received from dairy farmers at such plant for such month pursuant to § 987.70 as if such plant has been a pool plant; and

(ii) Deduct the gross payments made by the handler to dairy farmers for milk received at such plant for such month. Such gross payments shall be limited to cash payments made to the dairy farmer or his assignee on or before the date for filing reports required pursuant to § 987.31 (b), plus the value of any supplies or services furnished by the handler on prior written authorization or as evidenced by a delivery ticket signed by the dairy farmer; and

(2) On or before the 15th day after the end of the month, as his pro rata share of the expense of administration, an amount equal to that which would have been computed pursuant to § 987.95 had such plant been a pool plant.

§ 987.70 *Computation of value of producer milk.* The value of producer milk received during the month by each handler at his pool plant(s) shall be computed by the market administrator as follows:

(a) Multiply the pounds of such milk in each class by the applicable class price;

(b) Add together the resulting amounts.

(c) Add the amounts computed by multiplying the pounds of overage deducted from each class by the applicable class price;

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months;

(e) In the case of a handler operating a pool plant which was not a pool plant under this order during each of the preceding five months, add an amount calculated by multiplying the difference between the Class I and the Class II prices adjusted by the appropriate butterfat differentials by any figure determined as follows: Any amount by which the hundredweight of skim milk or butterfat in inventory for such month, pursuant to § 987.41 (a) (2), is less than the least hundredweight of skim milk or butterfat, respectively, deducted pursuant to § 987.46 (a) (4) and (b) for such handler for any month since such plant was not a pool plant;

(f) Add for each month of August an amount calculated by multiplying by 40 cents the hundredweight by which the inventory classified pursuant to § 987.41 (a) (2) for the preceding month exceeds any inventory so classified for the preceding February; and

(g) Add an amount computed by multiplying the hundredweight of skim milk and butterfat subtracted from Class I milk, pursuant to § 987.46 (a) (2) and (b), by the rate of compensatory payment as determined pursuant to § 987.54, for the nearest plant(s) from which an equivalent amount of other source milk was received in the form of fluid milk products.

§ 987.71 *Computation of the uniform price.* For each of the months of August through February, the market administrator shall compute the uniform price per hundredweight of producer milk of 4.0 percent butterfat content, for plants within the marketing area as follows:

(a) Combine into one total the values computed pursuant to § 987.70 for the producer milk of all handlers who submit reports prescribed in § 987.30 and who have made payments for the previous month pursuant to § 987.90 or § 987.97;

(b) Subtract, if the average butterfat content of the producer milk included under paragraph (a) of this section is greater than 4.0 percent, or add, if such average butterfat content is less than 4.0 percent, an amount computed as follows: Multiply the variation in the average butterfat content of such milk from 4.0 percent by the butterfat differential computed pursuant to § 987.91, and multiply the result by the total hundredweight of such milk;

(c) Add an amount equal to the sum of the deductions to be made from producer payments for location differentials pursuant to § 987.90 (c) (1);

(d) Add an amount equal to one-half of the unobligated balance on hand in the producer-settlement fund;

(e) Divide the resulting amount by the total hundredweight of producer milk included under paragraph (a) of this section; and

(f) Subtract not less than 4 cents nor more than 5 cents.

§ 987.72 *Computation of uniform prices for base milk and excess milk.* For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 4.0 percent butterfat content, for plants within the marketing area, as follows:

(a) Compute the aggregate value of excess milk for all handlers who submit reports pursuant to § 987.30, and who have made payments for the previous month pursuant to § 987.90 or § 987.97, as follows: (1) Multiply the hundredweight of such milk not in excess of the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II milk price; (2) multiply any additional hundredweight of such milk by the Class I milk price;

and (3) add together the resulting amounts;

(b) Divide the aggregate value of excess milk obtained in paragraph (a) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 4.0 percent butterfat content received from producers;

(c) Subtract an amount determined by multiplying the uniform price obtained in paragraph (b) of this section, plus 4 cents, times the hundredweight of excess milk from the total value of producer milk for the month as determined according to the calculations set forth in § 987.71 (a) to (d);

(d) Divide the result obtained pursuant to paragraph (c) of this section by the total hundredweight of base milk of handlers included in these computations; and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The resulting figure shall be the uniform price for base milk of 4.0 percent butterfat content for plants within the marketing area.

BASE RATING

§ 987.80 *Determination of daily base.* The daily base of each producer shall be calculated by the market administrator as follows: Divide the total pounds of milk received by all handlers from such producer during the months of September through January by the number of days from the first day milk is received from such producer during said months to the last day of January, inclusive, but not less than 120 days.

§ 987.81 *Computation of base.* The base of each producer to be applied during the months of March through July shall be a quantity of milk calculated by the market administrator in the following manner: Multiply the daily base of such producer by the number of days production delivered by such producer to handlers during the month.

§ 987.82 *Base rules.* The following rules shall apply in connection with the establishment of bases:

(a) A base shall be assigned to the producer for whose account milk is received at a pool plant during the months of September through January and to each person for whose account milk was delivered to a plant that did not qualify as a pool plant during each month of the base forming period, but which qualifies as a pool plant during any of the months of March through July, bases shall be assigned on deliveries at such plant in the same manner as if such plant had been a pool plant during each month of the base forming period; and

(b) An entire base shall be transferred by the market administrator to another person upon receipt of an application form, approved by the market administrator, and signed by the base-holder(s), or his heirs, and by the person to whom such base is transferred subject to the following condition:

(1) If a base is transferred to a producer already holding a base, a new base shall be computed by adding together the producer milk deliveries of the transferee and transferor during the base forming period and dividing the total by the number of days from the first day of delivery by either the transferee or transferor during the base forming period to the last day of January inclusive but not less than 120 days.

§ 987.83 *Announcement of established bases.* On or before March 1 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily base established by such producer.

PAYMENTS

§ 987.90 *Payments to producers.* Except as provided in paragraph (e) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(a) On or before the last day of each month, for milk received during the first 15 days of the month, at not less than the price per hundredweight for Class II milk for the preceding month;

(b) On or before the 15th day after the end of each of the months of August through February for milk received during such month at not less than the uniform price per hundredweight, computed for such handler pursuant to § 987.71, subject to the butterfat differential computed pursuant to § 987.91 and the location differential computed pursuant to § 987.92, less proper deductions authorized in writing by such producer and less payment made pursuant to paragraph (a) of this section, and deductions made pursuant to § 987.94;

(c) On or before the 15th day after the end of each of the months of March through July, after allowance for the amount of payment made pursuant to paragraph (a) of this section for deductions made pursuant to § 987.94, and for other proper deductions authorized in writing by such producer, as follows:

(1) At not less than the uniform price per hundredweight for base milk computed pursuant to § 987.72 for the quantity of base milk received from such producer during the month, subject to the butterfat differential computed pursuant to § 987.91 and the location differential computed pursuant to § 987.92; and

(2) At not less than the uniform price per hundredweight for excess milk computed pursuant to § 987.72 for the quantity of excess milk received from such producer during the month, subject to the butterfat differential computed pursuant to § 987.91 and the location differential computed pursuant to § 987.92;

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) In lieu of payments pursuant to paragraphs (a), (b) and (c) of this section, each handler shall make payment to a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines that such cooperative association is authorized to collect payment, as follows:

(1) On or before the 26th day of each month, an amount equal to not less than the Class II price for the preceding month, multiplied by the hundredweight of milk received during the first 15 days of the month from such producers, and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable uniform price(s) pursuant to §§ 987.71 and 987.72, multiplied by the hundredweight of milk received from such producers to which each such price is applicable, subject to the butterfat differential computed pursuant to § 987.91 and the location differential computed pursuant to § 987.92, less payment made such cooperative association pursuant to subparagraph (1) of this paragraph, and proper deductions authorized in writing by such producers or such cooperative associations; and

(f) On or before the 13th day after the end of the month, each handler shall pay to each cooperative association which is also a handler, for milk received from it not less than the value of such milk as classified pursuant to § 987.44 (a) at the applicable respective class prices, including differentials prescribed by the order.

§ 987.91 *Butterfat differential to producers.* The applicable uniform prices to be paid each producer pursuant to § 987.90 shall be increased or decreased for each one-tenth of one percent which the butterfat content of his milk is above or below 4.0 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 987.46 (b) by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of such butterfat and rounding the resultant figure to the nearest half cent.

§ 987.92 *Location differentials to producers.* In making payment to producers pursuant to § 987.90, the applicable uniform prices to be paid for producer milk received at a pool plant located 50 miles or more from the city limits of Hattiesburg, Jackson, Meadville, or Meridian, Mississippi, whichever is closest by the shortest hard-surfaced highway distance, as determined by the market administrator, shall be reduced at the rate set forth in the following schedule:

| Distance from the city limits of Hattlesburg, Jackson, Meadville or Meridian, Miss. (miles): | *Rates per hundredweight (cents)* |
|---|---|
| 50 but not more than 60 | 10.0 |
| For each additional 10 miles or fraction thereof, an additional | 1.5 |

§ 987.93 *Adjustment of accounts.* Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or verification of weights and butterfat tests of milk or milk products discloses errors resulting in money due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth under which such error occured.

§ 987.94 *Marketing services.* (a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 987.90, shall deduct 7 cents per hundredweight, or such amount not exceeding 7 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month, and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount and average butterfat test of milk received from each such producer. In lieu of such statement, a handler may authorize the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 987.90 (d).

§ 987.95 *Expense of administration.* As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month, for such month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as the Secretary may prescribe, with respect to all (a) receipts of producer milk, including such handler's own production; (b) other source milk allocated to Class I milk pursuant to § 987.56 (a) (2) and (b); and (c) Class I milk disposed of in the marketing area (except to a pool plant) from a nonpool plant not subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 987.96 *Producer-settlement fund.* The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 987.62, 987.93 and 987.97, and out of which he shall make all payments pursuant to §§ 987.93 and 987.98: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

§ 987.97 *Payments to the producer-settlement fund.* On or before the 12th day after the end of each month, each handler shall pay, except as provided in § 987.62, to the market administrator any amount by which the value of his producer milk as computed pursuant to § 987.70 for such month, is greater than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials.

§ 987.98 *Payments out of the producer-settlement fund.* On or before the 13th day after the end of each month, the market administrator shall pay to each handler any amount by which the total value of his producer milk, computed pursuant to § 987.70, for such month is less than the amount owed by him for such milk at the appropriate uniform price(s) adjusted by the producer butterfat and location differentials. If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

§ 987.99 *Termination of obligations.* The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay any handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or set-off by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c (15) (A) of the act, a petition claiming such money.

EFFECTIVE TIME, SUSPENSION, OR TERMINATION

§ 987.100 *Effective time.* The provisions of this part or any amendment to this part shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 987.101.

§ 987.101 *Suspension or termination.* The Secretary may suspend or terminate this part or any provision of this part whenever he finds this part or any provision of this part obstructs or does not tend to effectuate the declared policy of the act. This part shall terminate, in any event, whenever the provisions of the act authorizing it cease to be in effect.

§ 987.102 *Continuing obligations.* If, upon the suspension or termination of any or all provisions of this part, there are any obligations thereunder, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 987.103 *Liquidation.* Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such liquidating agent as the Secretary may designate, shall, if so directed by the Secretary,

liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignment or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books, and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidating and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

MISCELLANEOUS PROVISIONS

§ 987.110 *Agents.* The Secretary may, by designation in writing, name any officer or employee of the United States to act as his Agent or Representative in connection with any of the provisions of this part.

§ 987.111 *Separability of provisions.* If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

[F. R. Doc. 58-5359; Filed, July 14, 1958; 8:47 a. m.]

## Agricultural Research Service

### [ 7 CFR Part 319 ]

FOREIGN QUARANTINE NOTICES

NOTICE OF PROPOSED RULE MAKING

Notice is hereby given under section 4 of the Administrative Procedure Act (5 U. S. C. 1003) that the Agricultural Research Service, pursuant to sections 1, 5, 7, and 9 of the Plant Quarantine Act of 1912, as amended (7 U. S. C. 154, 159, 160, 162), is considering the amendment of §§ 319.37-4 (b) and 319.37-8 of the regulations supplemental to the quarantine relating to the importation of nursery stock, plants, and seeds (7 CFR 319.37-4 (b), 319.37-8) in the following respects:

a. Add at the end of § 319.37-4 (b) the following sentence: "In the case of seeds of such fruits as are approved for importation without treatment under the provisions of §§ 319.56, 319.56-1 et seq., the requirements as to freedom from pulp shall not apply when such seeds are imported, under the requirements of this section, for propagation."

b. Add at the end of § 319.37-8 the following two sentences: "Furthermore, all plants and cuttings of genera that are not prohibited entry into the United States but are known to be hosts of the citrus blackfly or may hereafter be determined as such, from all foreign countries (except Canada, countries in Europe and Asia Minor; and those in Africa bordering the Mediterranean Sea), must be defoliated before shipment from the country of origin if they are to be imported through any port other than the Ports of New York and Seattle. The Director of the Plant Quarantine Division shall issue adminstrative instructions listing the genera of plants that are not prohibited entry into the United States but are known to be hosts of the citrus blackfly or that may hereafter be determined as such."

c. Add a new section to be designated as § 319.37-8a, consisting of administrative instructions issued under the authority of the above proposed amendment, to read as follows:

§ 319.37-8a *Administrative instructions designating genera known to be hosts of the citrus blackfly.* (a) The Director of the Division, upon the basis of evidence satisfactory to him, has determined that the following genera of plants, that are not prohibited entry into the United States, are known hosts of the citrus blackfly (Aleurocanthus woglumi Ashby):

| | |
|---|---|
| Achras. | Jatropha. |
| Anacardium. | Lagerstroemia. |
| Annona. | Lucuma. |
| Ardisia. | Magnolia. |
| Bouvardia. | Mammea. |
| Bumelia. | Mangifera. |
| Bursera. | Melia. |
| Buxus. | Myroxylon. |
| Calocarpum. | Myrtus. |
| Capsicum. | Parmentiera. |
| Cardiospermum. | Persea. |
| Cedrela. | Plumeria. |
| Cestrum. | Populus. |
| Cnidoscolus. | Psidium. |
| Coffea. | Punica. |
| Crataegus. | Pyrus. |
| Cydonia. | Sapindus. |
| Diospyros. | Solandra. |
| Duranta. | Spondias. |
| Eugenia. | Strelitzia. |
| Fraxinus. | Tabebuia. |
| Hibiscus. | Vitis. |
| Hura. | Zingiber. |
| Ixora. | |

(b) Such additional admissible plants as may later be determined as hosts of the citrus blackfly shall have the same status as those listed herein.

(c) Blackfly host plants of genera that are prohibited entry into the United States are not included in the list in paragraph (a) of this section.

The first of these proposed amendments, if adopted, would have the effect of making inapplicable, in respect to the seeds of fruits that may now be imported without treatment in accordance with the provisions of §§ 319.56, 319.56-1 et seq., the requirements of § 319.37-4 (b), as to freedom from pulp. That is, if the entire fruit is eligible for importation without treatment, seeds from such fruit may be imported although accompanied by moist and fleshy pulp.

The second proposal would require that plants and plant cuttings of genera that are known to be hosts of the citrus blackfly from countries where this species occurs must be defoliated in the country of origin if they are to be imported through any port other than the Ports of New York and Seattle. It also authorizes the Director of the Plant Quarantine Division to issue administrative instructions listing such genera. The final proposed amendment consists of administrative instructions listing the genera of plants that are not otherwise prohibited entry into the United States and are known hosts of the citrus blackfly.

All persons who desire to submit written data, views, or arguments in connection with this matter should file the same with the Director of the Plant Quarantine Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D. C., within 30 days after the date of the publication of this notice in the FEDERAL REGISTER.

(Secs. 1, 5, 7, 9, 37 Stat. 315, 316, 317, 318, as amended; 7 U. S. C. 154, 159, 160, 162)

Done at Washington, D. C., this 10th day of July 1958.

[SEAL] M. R. CLARKSON,
*Acting Administrator,*
*Agricultural Research Service.*

[F. R. Doc. 58-5393; Filed, July 14, 1958; 8:54 a. m.]

## DEPARTMENT OF LABOR

### Division of Public Contracts

### [ 41 CFR Part 202 ]

SOAP AND RELATED PRODUCTS INDUSTRY

NOTICE OF TENTATIVE DECISION IN DETERMINATION OF PREVAILING MINIMUM WAGES

A complete record of proceedings held under Sections 1 and 10 of the Walsh-Healey Public Contracts Act (41 U. S. C. 35 and 43a) to determine the prevailing minimum wages for persons employed in the soap and related products industry has been certified by the Hearing Examiner. The record, having been fully considered, the rules of practice, 41 CFR 203.21 (b), next require issuance of a tentative decision in the matter, including a statement of findings and conclusions, as well as the reasons and basis therefor, and the appropriate wage determination.

For reasons hereinafter stated, no change is proposed from present regulations in either the substantive definition of the industry or in the geographical area to which the wage determination applies. Revision of the existing wage rate, however, is proposed to conform to the minimum wage which prevails as evidenced by the data of record, and to eliminate from the present regulations special provision for beginners and learners. There is no need to invoke special provision for apprentices or handicapped workers as special rates for them are governed by general regulations (41 CFR Part 201).

*Definition.* The record discloses that aside from an objection by one employer representative who urged the exclusion from the definition of products containing less than twenty percent soap or detergent, all other parties participating in the hearing approved of the definition. A spokesman for the American Soap and Glycerin Association stated that "the association believes that it is a fairly accurate definition." Similarly approving, were the comments on the definition made by the representative authorized to present the views of the International Chemical Workers Union, concurred in by the Oil, Chemical, and Atomic Workers International Union and by the AFL-CIO.

No product content limitation by percentages is justified by the evidence. Moreover, I take official notice of the fact that there is no percentage limitation on ingredients of soaps or synthetic organic detergent products as classified by either the Bureau of Census or the Bureau of Budget in their respective publications—the Census of Manufacturers and the Standard Industrial Classification. In substance the proposed definition has been in effect since 1950 and I find that it is appropriate for this industry.

LOCALITY

Among the subjects and issues presented in the notice of hearing was whether a single industry-wide determination or separate geographically described regional determinations should be made. Several views on this question were expressed at the hearing and there are also in the record, relevant economic data.

In brief, the labor organizations urged a single industry-wide determination, arguing from the premise that "the major part of this industry's products are sold nationally, usually according to brand names, and without regard to location of production." The industry trade association appearing at the hearing offered no objection to such a single determination. A representative of a single establishment urged that a wage differential be established for the industry in the South.

This last argument appears to rely more on lower wage rates paid in the South generally than on an insular position in terms of competition. Even with respect to the wage structure however, I note that the spokesman for the employer association expressed the view that while there is a difference between the rates paid in the South and elsewhere, the difference is "not as marked today as heretofore * * * We do not believe probably that the South demonstrates a sufficient proportion of this type of business to make a separate rate for areas, say, than any other area." In any event, the controlling purposes of the Walsh-Healey Act preclude use of such as basis for determining a separate regional minimum wage. As the Supreme Court has pointed out, the purpose of the act is "* * * to obviate the possibility that any part of our tremendous national expenditures would go to forces tending to depress wages and purchasing power * * *", Perkins v. Lukens Steel Company, 310 U. S. 113, 128.

The record contains uncontroverted evidence introduced by the Wage and Hour and Public Contracts Divisions on marketing and competitive factors showing substantial interregional shipments throughout the country. Government Exhibit No. 7 entitled "Government Awards Subject to the Public Contracts Act for the Soap and Related Products Industry Showing the Origin or Place of Manufacture and Destination by Regions, of Bids and Shipments Made Pursuant to Federal Agency Invitations-to-bid for the Calendar Year 1956", conclusively supports a single determination of the prevailing minimum wage in all the area in which the industry operates. From the information contained in this Exhibit it is seen that 63.5 percent of all bids and 42 percent of all shipments were inter-regional with every region bidding for contracts in and shipping soap to every other region. I therefore find that the area of competition for Government contracts subject to the Walsh-Healey Act in the products of this industry is co-extensive with all of that area in which the industry has its plants, and that it may not be defined more narrowly. This conclusion is in accordance with findings in the previous wage determinations issued for this industry.

Under all the evidence, therefore, I find that the locality in which the products of the soap and related products industry are to be manufactured or furnished under contracts subject to the Act includes all that area in which the industry has its establishments.

WAGE DATA

The wage data introduced at the hearing consist primarily of data compiled and prepared from a survey of the industry conducted by the Bureau of Labor Statistics. The survey included all establishments with eight or more employees. Two hundred and sixteen establishments with 15,443 covered employees were found to be within the scope of the survey as the industry was defined in these proceedings. Wage data were actually obtained and studied from 206 of the 216 establishments. That the data more nearly represent the whole industry the remaining ten establishments were included in accordance with well established statistical procedures by ascribing to them the same wages found in plants actually studied which had similar characteristics of size, location and the like.

A representative of the Association of American Soap and Glycerin producers representing the majority of the establishments in the soap and related products industry while appearing and testifying at the hearing made no specific recommendation as to a prevailing minimum wage rate. This representative, however, sought to project certain undesirable effects which he urged to be avoided in determining the prevailing minimum wage. His principal concern was that the rate determined not "price out" the smaller establishments in the industry employing 50 or less employees with a possibility of curtailed employment and competitive disadvantage on bidding for Government contracts in the products of the industry. On the basis of the evidence in the record of the hearing, it is evident that neither the majority nor even any substantial part of the smaller establishments employing the smaller number of employees are wholly confined to the lower half of minimum wages paid in the industry. The smaller establishments employing 50 or less employees are found throughout the whole range of the minimum wage frequency distribution tables. A considerable number of these smaller plants are shown to pay the prevailing minimum wage hereinafter determined. It necessarily follows that some portion of the establishments in a particular industry pay less than the prevailing minimum wage. It is the intent and purpose of the statute that such lower wage segment of the industry not have access to Government business unless its minimum wages are brought up to the prevailing industry standard. It is precisely to foreclose unfair competitive advantage by such lower-paying establishments that the act requires the payment of not less than the prevailing minimum wage in the industry.

The unions' evaluation of the minimum wages paid in this industry as reflected in the Bureau of Labor Statistics tabulations concludes that $1.50 per hour is appropriate for determination as the prevailing minimum wage in this industry.

To this rate the unions would add six cents to compensate for wage increases between September 1956 and the date of the hearing, in the plants in the industry having contracts with them. This increase is based upon the pattern established by both unions in bargaining with employers, and BLS data on average hourly earnings which it is urged show an increase of not less than six cents per hour from September 1956 to March 1957.

With regard to increases in minimum wage rates in this industry between the BLS wage survey of September 1956 and the time of the hearing, the union presentation relates first to collective agreements which they have negotiated for 22 plants in the industry. These plants compose just over 10 percent of the establishments reported by the Bureau of Labor Statistics and employ 4741 workers, or approximately 30 percent of the workers in the industry reported by the Bureau. Negotiated increases in minimum wages were indicated for 15 of the 22 establishments having a total employment of 4327 workers or approximately 28 percent of the industry total. The unions' presentation states that these increases average slightly above 7 cents an hour, and concludes that this data taken in conjunction with increases in the average hourly earnings of workers in this industry as published by the Bureau of Labor Statistics in the Monthly Labor Review spell out "a pattern of wage increases in this industry of no less than six cents since last September [1956]". I take official notice that the Bureau's published finding shows an increase in the applicable adjusted average hourly earnings of 15 cents from September 1956 to June 1957.

The data with respect to the increases negotiated by the unions standing alone are not complete or comprehensive enough, viewing the industry as a whole, to conclude with necessary support of substantial evidence what if any increase in minimum wages has occurred since September 1956 for purposes of determining the prevailing minimum wages in this industry. To follow the unions' suggestion would require determination without equivalent data as to post-survey increases in minimum wages, if any, in 90 percent of the establishments employing approximately 70 percent of the employees in the industry. No satisfactory or plausible basis for so concluding is advanced.

Similarly, no method is proposed or suggested by the unions to translate increases in the cited average hourly earnings into increases in the minimum wages paid in the industry. For these reasons the proposal of the unions for a post-survey increase of 6 cents an hour in the prevailing minimum wage in this industry must be denied.

An evaluation of the BLS wage data introduced at the hearing shows that in the Soap and Related Products Industry 52.7 percent of the establishments paid no covered worker a minimum wage of less than $1.35 per hour. On the other hand, 51.3 percent of all covered workers were employed in plants which paid no worker a minimum wage of less than $1.65 per hour.

Thus, the evidence presents two extremes, in relation to the data, normally in closer approximation and usually adverted to for a finding as to the minimum wage which prevails. As to industries where the employment is better diffused among the various plants in the industry, relating establishment minimum wages separately to total employment units or to total covered employment in such units has yielded minimum wages which are in relative proximity so that either could be characterized as prevailing in the particular industry. The exercise of statutory discretion in such cases has favored choice of one of these two minimum wages which under all the facts of record most accurately measures the prevailing minimum wages in the industry, considered as a whole. Such process of determination, however, is precluded here by the evidence which shows a substantial spread between the minimum wage suggested by each of the two approaches. Any choice between them in appraising the minimum wages of the industry as a whole, would depend upon whether the various sizes of plants as to employment should be disregarded and all should be treated as equals in their contribution to the prevailing minimum wage standard of the industry, or whether they should be accorded force and influence in accordance with their size.

In this industry, no single minimum hourly wage is found among the several plants with such frequency that it fairly may be said to be "prevailing" in the industry, in the sense that it will serve to distinguish the plants which pay "not less than * * * the prevailing minimum wages for persons employed in * * * the particular" industry. In this context, the minimum wage practices of the larger plants contributing most to employment in the industry inherently have greater, but not necessarily exclusive weight in influencing the practice which is prevalent in the industry as a whole, than the practices of its least substantial employing and productive units. However, each productive unit regardless of size offers some measurable contribution to the minimum wage practices of the industry viewed as a whole, requiring evaluation and weighting.

These several considerations are satisfied by the $1.50 rate proposed by the unions, which is so situated within the range between the rates of $1.35 and $1.65, as to avoid their disabilities as wholly accurate measures of the prevailing minimum wage practice of the industry. Table 3 of Government's Exhibit No. 5 shows that this rate has substantial representation as a minimum wage in the various sizes of plants surveyed from the largest to the smallest. While it recognizes the impact of the minimum wages paid by the larger plants, it also gives due weight to the minimum wage practices of the smaller sized plants, about 30 percent of which pay $1.50 or more as their minimum wage. The wage survey data on payment of this minimum rate show that 67.6 percent of all covered workers in the industry are employed in establishments which pay plant minimum wages of not less than $1.50 an hour.

It is evident from this analysis that the $1.50 rate is the most appropriate and accurate measure of the prevalent minimum wage practice in this industry.

There remains for consideration the contention of a single employer who urged that a lower wage rate be determined for the South in that the wage rates in the South are lower than in other regions and such differential is necessary for the southern plants to remain competitive. The data disclose that 25 percent of the establishments in the South employing 83.3 percent of the 1,106 covered workers paid no worker minimum wages at less than $1.50, and only 185 workers were employed in southern plants paying wages of less than $1.50. The evidence of record obviously fails to support and conclusively refutes the proposal of this employer, and it is rejected.

On the basis of the evidence contained in the record, I find, therefore, that the prevailing minimum wage in the Soap and Related Products Industry is $1.50 per hour.

*Learners or beginners.* Separate wage data for learners were not obtained in the BLS survey, as it appears that the industry does not employ learners as this term is usually applied. Both the labor unions and the industry representatives at the hearing expressed the opinion that the use of beginners or learners in the industry was of such a minor character that authorization of a subminimum rate for such classification would be without substantial basis and unwarranted. A view was expressed for one employer located in the South that a subminimum rate should be authorized for learners or beginners if the prevailing minimum wage were determined to be $1.10 per hour. Since no basis is presented for a learner or beginner subminimum wage tolerance, none is necessary or will be provided.

Accordingly, upon the findings and conclusions stated herein, and pursuant to authority under the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U. S. C. 35 et seq.) and in accordance with the Administrative Procedure Act (60 Stat. 237; 5 U. S. C. 237), notice is hereby given that I propose to amend Title 41 of the Code of Federal Regulations, Part 202, as follows:

§ 202.31 *Soap and related products industry*—(a) *Definition.* The soap and related products industry is defined as the manufacture of soap in bars, cakes, chips and flakes, and in granulated, sprayed, powdered, paste, and liquid forms; synthetic organic detergents for household or institutional use; glycerin (except synthetic glycerin); and includes, but is not limited to, the following products when they contain soap and/or synthetic organic detergents: Cleansers, scouring powders, shaving soaps and creams, shampoos, washing compounds, and other cleaning agents and compounds.

(b) *Minimum wage.* The minimum wage for persons employed in the manufacture or furnishing of products of the soap and related products industry under contracts subject to the Walsh-Healey Public Contracts Act shall not be less than $1.50 per hour arrived at either on a time or piece rate basis.

(c) *Effect on other obligations.* Nothing in this section shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this section.

Within thirty days from the date of the publication of this notice in the FEDERAL REGISTER, interested parties may submit written exceptions to the proposed action above described. Exceptions should be directed to the Secretary of Labor and filed with the Chief Hearing Examiner, Room 4414, United States Department of Labor, Washington 25, D. C.

Signed at Washington, D. C., this 8th day of July 1958.

JAMES P. MITCHELL,
*Secretary of Labor.*

[F. R. Doc. 58-5370; Filed, July 14, 1958; 8:50 a. m.]

## CIVIL AERONAUTICS BOARD

### [ 14 CFR Parts 40, 41 ]

[Draft Release 58-13]

SCHEDULED INTERSTATE AIR CARRIER OPERATIONS AND SCHEDULED AIR CARRIER OPERATIONS OUTSIDE CONTINENTAL LIMITS OF UNITED STATES

REQUIREMENTS FOR PILOT ROUTE QUALIFICATION

Pursuant to authority delegated by the Civil Aeronautics Board to the Bureau of Safety, notice is hereby given that the Bureau will propose to the Board amendments to Parts 40 and 41 of the Civil Air Regulations as hereinafter set forth.

Interested persons may participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Civil Aeronautics Board, attention Bureau of Safety, Washington 25, D. C. In order to insure their consideration by the Board before taking further action on the proposed rules, communications must be received by Aug. 26, 1958. Copies of such communications will be available after Aug. 28, 1958, for examination by interested persons at the Docket Section

of the Board, Room 5412, Department of Commerce Building, Washington, D. C.

Section 40.303 of the Civil Air Regulations requires, in part, that each pilot in command in qualifying over a route shall make an entry into each regular, provisional, and refueling airport into which he is scheduled to fly. Section 41.50 of the Civil Air Regulations provides, in part, that a pilot in qualifying over a route shall make at least one round trip or two one-way trips over the route, including a familiarization flight at each regular, provisional, or refueling airport, with one of the air carrier's check pilots. Sections 40.304 and 41.51 governing the maintenance and re-establishment of route qualifications require under certain circumstances that the provisions of §§ 40.303 and 41.50 be complied with by the pilot in command.

On January 20, 1955, the Bureau of Safety published Civil Air Regulations Draft Release No. 55-3 (20 F. R. 550). This draft release dealt with the over-all problem of pilot airport and route qualification and considerable emphasis was placed on recent developments of motion picture panoramic views of airports and their environs which showed excellent promise of providing an effective means for insuring pilot airport qualification. The Bureau expressed the view that the regulations should be amended in a manner that would encourage further research and development of the visual training aids programs by various commercial sources and at the same time provide more acceptable airport qualification rules for use in the meantime. Furthermore, the Bureau stated that it would seem appropriate to permit methods of airport qualification other than physical entry, provided that such alternative methods had the approval of the Administrator.

Following publication of Draft Release 55-3, the Board promulgated a series of Special Civil Air Regulations (SR-413, SR-414, SR-418, and SR-418A) as a vehicle for permitting the controlled introduction of new techniques in airport and route qualification. These included the use of pictorial means within the training program which enable pilots to qualify at specified airports by using color motion pictures or slides showing clear daylight views of the complete physical layouts of the airports, surrounding terrain, obstructions, approaches to all runways, restricted areas, and conspicuous reference points that are of value to pilots. Under these special regulations air carriers were also authorized to conduct operations at an airport in close proximity to an airport into which pilots were qualified when the Administrator found that such pilots were adequately qualified at the new airport. In making such findings the Administrator took into consideration such things as the familiarity of the pilots with the layout, surrounding terrain, location of obstacles, and instrument approach and traffic control procedures at the new airport. In addition, under SR-418 and SR-418A, a pilot was expressly permitted to accomplish initial qualification into an airport without being accompanied by a pilot qualified at that airport if such initial entry were made under VFR weather conditions at the particular airport involved.

One of the principal purposes of these special regulations has been to provide sufficient opportunity for evaluation of pictorial means of airport and route qualification by industry and Government alike in order to guide the Board in its final action in amending the Civil Air Regulations. Experience gained under these special regulations up to the time of the adoption of SR-418A indicated that the various procedures provided therein for airport and route qualification, including pictorial means, had been successful. Therefore, the Board stated in the preamble to SR-418A that prior to the termination of that regulation, a proposal to incorporate its substance into Parts 40 and 41 would be circulated for comment. Inasmuch as SR-418A terminates on September 23, 1958, the Board is interested in obtaining comments as to the continued effectiveness and extent of use of the privileges of SR-418A and any other recommendations with respect to incorporation of the provisions of that regulation in Parts 40 and 41 of the Civil Air Regulations.

The provisions of SR-418A are being proposed for incorporation in Parts 40 and 41 with a slight revision of the requirement concerning route qualification on those routes on which navigation must be accomplished by pilotage and on which the flight is to be conducted at or below the level of adjacent terrain. These changes are being made in the interest of clarity.

In view of the foregoing, notice is hereby given that the Bureau proposes to recommend to the Board that Parts 40 and 41 of the Civil Air Regulations be amended as follows:

1. By amending §§ 40.303 and 41.50 to read as follows:

*Pilot route and airport qualification requirements.* (a) An air carrier shall not utilize a pilot as pilot in command until he has been qualified for the route on which he is to serve in accordance with the provisions of this section and the appropriate instructor or check pilot has so certified.

(b) Each such pilot shall demonstrate adequate knowledge concerning the subjects listed below with respect to each route to be flown. Those portions of the demonstration pertaining to holding procedures and instrument approach procedures may be accomplished in a synthetic trainer which contains the radio equipment and instruments necessary to simulate the navigational and letdown procedures approved for use by the air carrier:

(1) Weather characteristics,

(2) Navigational facilities.

(3) Communication procedures,

(4) Type of en route terrain and obstruction hazards,

(5) Minimum safe flight levels,

(6) Position reporting points,

(7) Holding procedures,

(8) Pertinent traffic control procedures, and

(9) Congested areas, obstructions, physical layout, and all instrument approach procedures for each regular, provisional, and refueling airport approved for the route.

(c) Each such pilot shall make an entry as a member of the flight crew at each regular, provisional, and refueling airport into which he is scheduled to fly. Such entry shall include a landing and take-off. The qualifying pilot shall occupy a seat in the pilot compartment and he shall be accompanied by a pilot who is qualified at the airport.

(d) Such pilot shall not be required to meet the entry requirements of paragraph (c) of this section when:

(1) The initial entry is made under VFR weather conditions at the particular airport involved; or

(2) The air carrier shows that the pilot airport qualification can be accomplished by an approved pictorial means; or

(3) The air carrier notifies the Administrator that it intends to conduct operations at an airport in close proximity to an airport into which the pilot involved is presently qualified by entry, and the Administrator finds that such pilot is adequately qualified at the new airport. The Administrator, in making such finding, shall take into consideration at least the familiarity of the pilot with the layout, surrounding terrain, location of obstacles, and instrument approach and traffic control procedures at the new airport.

(e) On routes or route segments on which navigation must be accomplished by pilotage and on which flight is to be conducted at or below the level of the adjacent terrain which is within a horizontal distance of 25 miles on either side of the center line of the route to be flown, the pilot shall be familiarized with such route or route segments by not less than two one-way trips on the flight deck over the route or route segments under VFR weather conditions to permit the qualifying pilot to observe terrain along the route.

2. By amending § 40.304 (a) by changing the reference "§ 40.303 (d)" to read "§ 40.303 (e)".

3. By amending § 41.51 to read as follows:

§ 41.51 *Maintenance and re-establishment of pilot route and airport qualification for particular trips.* (a) To maintain pilot route and airport qualification, each pilot being utilized as pilot in command, within the preceding 12-month period, shall have made at least one trip as pilot or other member of the flight crew between terminals into which he is scheduled to fly and shall have complied with the provisions of § 41.50 (e), if applicable.

(b) In order to re-establish pilot route and airport qualifications after absence from a route for a period in excess of 12 months, a pilot shall comply with the appropriate provisions of § 41.50.

These amendments are proposed under the authority of Title VI of the Civil Aeronautics Act of 1938, as amended. The proposal may be changed in the light of comments received in response to this notice of proposed rule making.

(Sec. 205, 52 Stat. 984; 49 U. S. C. 425. Interpret or apply secs. 601–610, 52 Stat. 1007–1012, 49 U. S. C. 551–560)

Dated at Washington, D. C., July 8, 1958.

By the Bureau of Safety.

[SEAL] OSCAR BAKKE, *Director.*

[F. R. Doc. 58-5397; Filed, July 14, 1958; 8:55 a. m.]

## [ 14 CFR Part 241 ]

[Economic Regs. Draft Release 96]

### UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

### CERTIFICATION OF FORM REPORTS

JULY 10, 1958.

Notice is hereby given that the Civil Aeronautics Board has under consideration amendment of the reporting requirements of Part 241 of the Economic Regulations (14 CFR Part 241). This proposed rule would require the carriers at the time of filing a Form 41 report to identify and explain any differences between the accounting methods and methods of computing and reporting traffic statistics used in such report and those methods used in prior reports. The present certification of the Form 41 report would be modified accordingly.

The principal features of this proposed amendment are explained in the explanatory statement below and the proposed amendment is set forth below.

This regulation is proposed under authority of sections 205 (a) and 407 of the Civil Aeronautics Act, as amended (52 Stat. 984, 1000; 49 U. S. C. 425, 487).

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate and addressed to the Secretary, Civil Aeronautics Board, Washington 25, D. C. All relevant matter in communications received on or before August 13, 1958 will be considered by the Board before taking final action thereon. Copies of such communications will be available on or after August 15, 1958 for examination by interested persons in the Docket Section of the Board, Room 5412, Commerce Building, Washington, D. C.

By the Civil Aeronautics Board.

[SEAL] JOHN B. RUSSELL, *Acting Secretary.*

*Explanatory statement.* All data included in the Form 41 reports, to fully serve the public interest, must either be prepared and reported on a basis consistent with similar data included in prior reports or adequate notice must be given concerning changes and deviations. While air carriers are required by § 241.2–16 of the "Uniform System of Accounts and Reports for Air Carriers" to set forth as footnotes to the financial statements all matters which are not clearly identified in the body of the financial statement but which can have a significant impact upon reported results, the carriers have failed to identify or explain in their Form 41 reports changes in reporting practices utilized in preparing such reports. Furthermore, the carriers are not presently required to certify that the data in a particular report was prepared and reported on a basis consistent with prior reports.

Accordingly, this proposal would require that an additional statement be included in the certification to a Form 41 report certifying that the methods and procedures used are consistent with those used in prior reports except as specifically indicated by appropriate notations or explanations accompanying the schedules.

Such notations or explanations should be attached to the first report affected by the change in methods or procedure and, except for changes resulting from an overall substitution in the regulations, would cover all changes in accounting methods having an impact upon financial data including, but not limited to, changes in methods of or basis for reserve accruals, depreciation, allocations between operating divisions or to nontransport activities, etc., and all changes in methods of computing and reporting traffic and capacity statistics having an impact upon such statistics.

The proposal would necessitate the reprinting of Schedule A of Form 41. Carriers would, therefore, be requested for an interim period to type the additional certification on the currently effective Schedule A for reporting purposes, until a supply of the modified schedule becomes available.

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) in the following respects:

1. By adding a new paragraph (i) to § 241.22 to read as follows:

(i) All changes in accounting methods having an impact upon financial data (except for those resulting from an over-all substitution in regulations), including but not limited to changes in methods of or basis for reserve accruals, depreciation, allocations between operating divisions or nontransport activities, and all changes in methods of computing and reporting traffic and capacity statistics having an impact upon such statistics, shall be adequately explained and identified in the report first reflecting such changes. Such explanations related to financial position or financial results, shall be made on Schedules B–2 and P–2, Notes to Balance Sheet and Notes to Income Statement, respectively. Changes in methods for computing or reporting traffic and capacity statistics shall be identified and explained on a separate sheet attached to the first report affected. (See section 2, item 16.[1]) The requirements herein shall not be construed, in any sense, as relieving the air carrier of the responsibility for conforming its procedures to those otherwise prescribed in this system of accounts and reports.

2. By amending the title to § 241.23 to read "Certification and Balance Sheet Elements" and by inserting immediately thereafter the subtitle "Schedule A—Certification" followed by a statement concerning the form and contents of the certification to read as follows: The certification of the Form 41 reports, embodied in Schedule A thereof, shall read as follows:

I, the undersigned _____
_____ of the
(Title of officer in charge of accounts)
_____
(Full name of the reporting company)
do certify that this report and all schedules and supporting documents which are submitted herewith or have been submitted heretofore as parts of this report filed for the above indicated period have been prepared under my direction; that I have carefully examined them and declare that they correctly reflect the accounts and records of the company, and to the best of my knowledge and belief are a complete and accurate statement, after adjustments to reflect full accruals, of the operating revenues and expenses, income items, assets, liabilities, capital, surplus, and operating statistics for the periods reported in the several schedules; that the various items herein reported were determined in accordance with the Uniform System of Accounts for Air Carriers prescribed by the Civil Aeronautics Board; and that the data contained herein is reported on a basis consistent with prior reports except as specifically noted in explanations accompanying the financial and statistical statements.

[F. R. Doc. 58-5398; Filed, July 14, 1958; 8:55 a. m.]

# NOTICES

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

IDAHO

### NOTICE OF PROPOSED WITHDRAWAL AND RESERVATION OF LANDS

JULY 7, 1958.

The Bureau of Reclamation has filed an application, Serial No. Idaho 09271, for the withdrawal of the lands described below, from all forms of appropriation under the first form of withdrawal, as provided by section 3 of the act of June 17, 1902 (32 Stat. 388). The applicant desires the land for development of the Burns Creek Dam and Reservoir on the Snake River.

For a period of thirty days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, Department of the Interior, P. O. Box 2237, Boise, Idaho.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will

[1] Section 241.2–16.

be sent to each interested party of record.

The lands involved in the application are:

BOISE MERIDIAN, IDAHO

T. 3 N., R. 42 E.,
Sec. 4, Lots 5, 7, 8, and NW¼SW¼;
Sec. 5, Lots 6, 7, 8, 9, 10, and the portions of Lots 5 and 11 not included in Homestead Entry Survey 555;
Sec. 9, Lots 4, 5, 8, 9, 10, and NW¼SW¼NW¼NE¼, SW¼SE¼NW¼NE¼.

This area includes approximately 265.78 acres, and is located on the Snake River about 15 miles east of Ririe, Bonneville County, Idaho.

DONALD I. BAILEY,
*Acting State Supervisor.*

[F. R. Doc. 58-5372; Filed, July 14, 1958; 8:51 a. m.]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-18]

GENERAL ELECTRIC CO.

NOTICE OF ISSUANCE OF FACILITY LICENSE AMENDMENT

Please take notice that the Atomic Energy Commission has issued the following Amendment (No. 5) to License DPR-1 authorizing General Electric Company to conduct tests in its Vallecitos Boiling Water Reactor with two types of fuel elements designated by the applicant as the "Geneva Conference fuel" type and the "APPR fuel" type. The Commission has found that prior public notice of proposed issuance of this amendment is not necessary in the public interest since the conduct of the proposed tests does not present any substantial changes in the hazards to the health and safety of the public from those presented by the previously approved operation of the Vallecitos Boiling Water Reactor.

In accordance with the Commission's rules of practice (10 CFR Part 2) the Commission will direct the holding of a formal hearing on the matter of the issuance of the license amendment upon receipt of a request therefor from the licensee or an intervener within thirty days after the issuance of the license amendment. For further details, see (1) the application for amendment submitted by General Electric Company and (2) a hazards analysis of the proposed tests prepared by the Division of Licensing and Regulation, both on file at the Commission's Public Document Room, 1717 H Street NW., Washington, D. C. A copy of item (2) above may be obtained at the Commission's Public Document Room or upon request addressed to the Atomic Energy Commission, Washington 25, D. C., Attention: Director, Division of Licensing and Regulation.

Dated at Germantown, Md., this 8th day of July 1958.

For the Atomic Energy Commission.

H. L. PRICE,
*Director, Division of Licensing and Regulation.*

[Docket No. 50-18]

[License No. DPR-1, Amdt. 5]

GENERAL ELECTRIC COMPANY

AMENDMENT OF UTILIZATION FACILITY LICENSE

In addition to activities previously authorized by the Commission under License No. DPR-1, as amended, the General Electric Company (hereinafter referred to as the "licensee") is authorized to perform the tests described in application amendments No. 25 and 27 dated May 28, 1958, and June 24, 1958, respectively, in accordance with the procedures and subject to the limitations stated therein.

In performing these tests, the licensee shall comply with the conditions and requirements contained or incorporated in paragraph 4 of License No. DPR-1 as amended.

This amendment is effective as of the date of issuance.

Date of issuance: July 8, 1958.

For the Atomic Energy Commission.

H. L. PRICE,
*Director,*
*Division of Licensing and Regulation.*

[F. R. Doc. 58-5348; Filed, July 14, 1958; 8:45 a. m.]

## CIVIL AERONAUTICS BOARD

[Docket No. 9217 et al.]

STATES-ALASKA AIR SERVICES

NOTICE OF PREHEARING CONFERENCE

Notice is hereby given that the place of the prehearing conference assigned to be held on July 28, 1958, at 10:00 a. m., e. d. s. t., is changed from Room 1509 to Room 1510, Temporary Building No. 4, 17th Street and Constitution Avenue NW, Washington, D. C., before Examiner William J. Madden.

Dated at Washington, D. C., July 9, 1958.

[SEAL] FRANCIS W. BROWN,
*Chief Examiner.*

[F. R. Doc. 58-5399; Filed, July 14, 1958; 8:55 a. m.]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12315, 12316; FCC 58M-732]

SHEFFIELD BROADCASTING CO. AND J. B. FALT, JR.

ORDER CONTINUING HEARING CONFERENCE

In re applications of Iralee W. Benns, tr/as Sheffield Broadcasting Co., Sheffield, Alabama, Docket No. 12315, File No. BP-11130; J. B. Falt, Jr., Sheffield, Alabama, Docket No. 12316, File No. BP-11559; for construction permits.

The Chief Hearing Examiner having under consideration the motion of Iralee W. Benns, tr/as Sheffield Broadcasting Co., filed July 7, 1958, that the date for exchange of exhibits constituting the direct cases of the parties herein be extended from July 8 to August 25, 1958, and that the prehearing conference heretofore scheduled for July 23, 1958, be continued to September 9, 1958;

It appearing, that counsel for the moving party had been occupied in other hearing matters almost continuously since May 26, 1958, and that additional time is required by him to prepare adequately for the hearing in this proceeding;

It appearing further, that the Commission's Broadcast Bureau, and all other parties of record in the matter, consent to the granting of the instant motion and to a waiver of the provisions of § 1.43 of the rules to permit immediate consideration thereof;

*It is ordered,* This 8th day of July 1958, that the motion is granted and that the final date for exchange of exhibits constituting the direct cases of the parties to the above-entitled proceeding is extended from July 8, 1958, to August 25, 1958; and that the prehearing conference herein, which is presently scheduled for July 23, 1958, is continued to September 9, 1958.

Released: July 9, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
*Secretary.*

[F. R. Doc. 58-5376; Filed, July 14, 1958; 8:52 a. m.]

[Docket No. 12332, etc.; FCC 58M-734]

PENINSULA BROADCASTING CORP. ET AL.

ORDER SCHEDULING FURTHER PREHEARING CONFERENCE

In re applications of Peninsula Broadcasting Corporation, (WVEC-TV), Hampton, Virginia. Docket No. 12332, File No. BMPCT-4721; Tim Brite, Inc. (WTOV-TV), Norfolk, Virginia, Docket No. 12333, File No. BMPCT-4778; for modification of construction permits. Virginian Television Corporation, Norfolk, Virginia, Docket No. 12335, File No. BPCT-2413; for construction permit for new television broadcast station.

Pursuant to a letter request by counsel for the applicant Tim Brite, Inc. submitted in conformity with the procedures heretofore established on the record at a prehearing conference.

*It is ordered,* This 9th day of July 1958, that a further prehearing conference in this proceeding shall be held at 9:15 a. m. on Wednesday, July 16, 1958, in Room 1230, New Post Office Building, Washington, D. C.

Released: July 9, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
*Secretary.*

[F. R. Doc. 58-5377; Filed, July 14, 1958; 8:52 a. m.]

[Docket No. 12429; FCC 58M-728]

WILLIAM WALKER ET AL.

ORDER CONTINUING HEARING

In re application of William Walker, et al., (Transferors) and Evening Telegram Company, Norman M. Postles and

Walter C. Bridges (Transferees), Docket No. 12429, File No. BTC-2699; for commission consent to the voluntary transfer of control of M & M Broadcasting Company, licensee of Stations WMAM and WMBV-TV, Marinette, Wisconsin.

*It is ordered,* This 7th day of July 1958 that, pursuant to agreement of counsel arrived at during the prehearing conference held on this date, the hearing in the above-entitled proceeding is continued from July 15, to July 23, 1958, at 10 o'clock a. m., in Washington, D. C.

Released: July 9, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
*Secretary.*

[F. R. Doc. 58-5378; Filed, July 14, 1958; 8:52 a. m.]

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[Docket Nos. 12510, 12511; FCC 58M-737]

ROBERT S. PLIMPTON AND SEAWAY BROADCASTING CO., INC.

NOTICE OF PREHEARING CONFERENCE

In re applications of Robert S. Plimpton, Norfolk, New York; Docket No. 12510, File No. BP-11467; Seaway Broadcasting Co., Inc., Massena, New York; Docket No. 12511, File No. BP-12026; for construction permits.

A prehearing conference will be held Monday, September 8, 1958, at 10 a. m., in the offices of the Commission, Washington, D. C.

Dated: July 9, 1958.

Released: July 10, 1958.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] MARY JANE MORRIS,
*Secretary.*

[F. R. Doc. 58-5379; Filed, July 14, 1958; 8:52 a. m.]

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# FEDERAL POWER COMMISSION

[Docket Nos. G-9548 etc.]

MURPHY CORP. ET AL.

NOTICE OF POSTPONEMENT OF HEARING

JULY 8, 1958.

In the matters of Murphy Corporation et al., Docket Nos. G-9548, G-9550, G-11366, G-11367, G-13428; Murphy Corporation, Docket Nos. G-11160, G-13429, G-13432.

Upon consideration of the motion filed July 3, 1958, by Counsel for Murphy Corporation et al. and Murphy Corporation for postponement of the hearing now scheduled for July 14, 1958, in the above-designated matters;

The hearing now scheduled for July 14, 1958, is hereby postponed to October 6, 1958, at 10:00 a. m., e. s. t., in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, D. C.

[SEAL] JOSEPH H. GUTRIDE,
*Secretary.*

[F. R. Doc. 58-5350; Filed, July 14, 1958; 8:45 a. m.]

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[Docket Nos. G-12059 etc.]

TRANSCONTINENTAL GAS PIPELINE CORP. AND ATLANTIC SEABOARD CORP.

ORDER FIXING DATE FOR ORAL ARGUMENT

JULY 8, 1958.

In the matters of Transcontinental Gas Pipeline Corporation, Docket Nos. G-12059, G-13357 and G-13560; Atlantic Seaboard Corporation, Docket No. G-13707.

On May 29, 1958, the Presiding Examiner issued his decision in the above designated proceeding. Thereafter, on June 17, 1958, exceptions to that decision were filed by Atlantic Seaboard Corporation, National Coal Association et al., and Baltimore Gas & Electric Company. Together with their respective exceptions, each of the above-named parties filed a motion or request for opportunity to present oral argument before the Commission in opposition to the aforementioned decision.

The Commission finds: It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the respective motions and request for oral argument before the Commission be granted as herein ordered and provided.

The Commission orders:

(A) Oral argument shall be had before the Commission on July 31, 1958 at 10:00 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by the exceptions to the Presiding Examiner's decision.

(B) Those parties to this proceeding who intend to participate in the oral argument shall notify the Secretary of this Commission on or before July 18, 1958, of such intention and the time required for presentation of their argument.

By the Commission.

[SEAL] JOSEPH H. GUTRIDE,
*Secretary.*

[F. R. Doc. 58-5351; Filed, July 14, 1958; 8:46 a. m.]

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[Docket No. E-6832]

SOUTHERN NEVADA POWER CO.

ORDER PROVIDING FOR HEARING AND SUSPENDING PROPOSED RATE SCHEDULES

JULY 9, 1958.

Southern Nevada Power Company (Southern Nevada), incorporated under the laws of the State of Nevada, with its principal place of business in Las Vegas, Nevada, on June 9, 1958, tendered two proposed rate schedules for filing, pursuant to section 205 of the Federal Power Act, with the request that they be permitted to be effective April 1, 1958. The proffered filings have been tentatively designated in the Commission's files as Supplement Nos. 1 to Southern Nevada's Rate Schedules FPC Nos. 1 and 2.

Substantively, the proposed supplemental rate schedules would effect increases in the rates and charges embodied in Southern Nevada's currently effective rate schedules for wholesale electric service to: (1) The Colorado River Commission of Nevada (Southern Nevada's Rate Schedule FPC No. 1); and (2) California-Pacific Utilities Company (Southern Nevada's Rate Schedule FPC No. 2). The Colorado River Commission of Nevada, an instrumentality of the State of Nevada, in turn resells the power and energy purchased from Southern Nevada to the California-Pacific Utilities Company for resale by the latter through its Needles, California, electric system. California-Pacific Utilities Company's other purchase of electric power and energy from Southern Nevada is used by the former to meet the electric requirements of its Henderson, Nevada, electric system.

Based upon data submitted by Southern Nevada, the proposed rate increase to the Colorado River Commission of Nevada would amount to $22,523 (10.9 percent) for the twelve-month period ending March 1958, and the proposed increase to California-Pacific Utilities Company would amount to $3,620 (5.9 percent) for the same twelve-month period. In each instance, the proposed increase would be accomplished by a one mill per kwh increase in each step of the energy charge portion of Southern Nevada's currently filed demand-energy type rate and a contraction of the first step of that charge from 180,000 kwh to 100,000 kwh per month. That demand-energy rate is Southern Nevada's LGS rate, a standard rate of the Company available to industrial and resale purchasers. As such, it is attached to the agreement between Southern Nevada and the Colorado River Commission of Nevada, dated June 24, 1955, embodied in Southern Nevada's Rate Schedule FPC No. 1, and the agreement between Southern Nevada and California-Pacific Utilities Company, dated June 1, 1955, embodied in Southern Nevada's Rate Schedule FPC No. 2. The former agreement is for an initial 10-year term from January 1, 1956, and successive 10-year periods thereafter, and the last mentioned agreement is for an initial term of 10 years from June 1, 1955, and for successive 10-year periods thereafter.

In support of the proposed rate increases, Southern Nevada submitted data, showing a rate base derived by an apparent averaging of replacement cost and book cost, less depreciation reserve and customer advances; a return of 7.65 percent; and a normalization of Southern Nevada's federal income tax liability by reason of certain practices of the Company in the computation of income taxes.

The proposed changes in Southern Nevada's currently filed rate schedules have not been shown to be justified; may result in excessive rates or charges; may place an undue burden upon ultimate consumers; and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful within the meaning of the Federal Power Act. And unless suspended by order of the Commission, the proposed supplemental rate schedules will become effective July 10, 1958, pursuant to the provisions of

the Federal Power Act and the Commission's Regulations thereunder.

The Commission finds: In view of the foregoing, it is necessary and appropriate for the purposes of the Federal Power Act that the Commission, pursuant to the authority of that Act, enter upon a hearing concerning the lawfulness of Southern Nevada's Rate Schedules FPC Nos. 1 and 2 as proposed to be changed by Supplements Nos. 1 thereto and that the operation of such proposed supplemental rate schedules be suspended and the use thereof deferred as hereinafter provided.

The Commission orders:

(A) A public hearing be held concerning the lawfulness of Southern Nevada's Rate Schedules FPC Nos. 1 and 2 as proposed to be changed by Supplements Nos. 1 thereto at a time and place and in the manner all to be fixed by further order of the Commission.

(B) Pending such hearing and decision thereon, the operation of each of the proposed supplemental rate schedules referred to in Paragraph (A) above hereby is suspended and the use thereof deferred until December 11, 1958. On that date the proposed supplemental rate schedules shall take effect in the manner prescribed by the Act, subject to further order of the Commission.

(C) During the period of suspension Southern Nevada's Rate Schedules FPC Nos. 1 and 2, now on file with the Commission, shall remain and continue in effect.

(D) Interested State Commissions may participate in this proceeding as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-5380; Filed, July 14, 1958; 8:52 a. m.]

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[Docket No. G-15410]

MAGNOLIA PETROLEUM CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGE IN RATES

JULY 9, 1958.

Magnolia Petroleum Company (Operator) et al. (Magnolia), on June 9, 1958, tendered for filing a proposed change in its presently effective rate schedule for the sale of natural gas subject to the jurisdiction of the Commission. The proposed change which constitutes an increased rate and charge, is contained in the following designated filings:

Description: (1) Supplemental Agreement,[1] dated May 29, 1958. (2) Notice of Change, undated.

Purchaser: United Gas Pipe Line Company.

Rate schedule designation: (1) Supplement No. 1 to Magnolia's FPC Gas Rate Schedule No. 24. (2) Supplement No. 2 to Magnolia's FPC Gas Rate Schedule No. 24.

[1] Parties renegotiate a base rate increase from 8.997 cents to 18.5 cents per Mcf.

Effective date: July 10, 1958 (the stated effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed renegotiated rate increase, Magnolia states that the sale of natural gas is a commodity sale and not a service, as is the transportation of gas, and the determination of a just and reasonable rate should be by a "supply and demand formula" method. In addition, Magnolia states the increase is necessary because its revenue requirements have increased with the rise in cost of doing business and the additional revenue is further made necessary to encourage further exploration and development.

The increased rate and charge so proposed has not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or perferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed change, and that Supplement Nos. 1 and 2 to Magnolia's FPC Gas Rate Schedule No. 24 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Ch. I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rate and charge contained in Supplement Nos. 1 and 2 to Magnolia's FPC Gas Rate Schedule No. 24.

(B) Pending such hearing and decision thereon, said supplement be and it is hereby suspended and the use thereof deferred until December 10, 1958, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplement hereby suspended nor the rate schedule sought to be altered thereby shall be changed until this proceeding has been disposed of or until the period of suspension has expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by § 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-5381; Filed, July 14, 1958; 8:52 a. m.]

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[Docket No. G-15417]

CONTINENTAL OIL CO. ET AL.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

JULY 9, 1958.

Continental Oil Company (Operator) et al. (Continental), on June 9, 1958, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, undated.

Purchaser: El Paso Natural Gas Company.

Rate schedule designation: Supplement No. 10 to Continental's FPC Gas Rate Schedule No. 85; Supplement No. 7 to Continental's FPC Gas Rate Schedule No. 92.

Effective date: July 10, 1958 (the stated effective date is the effective date proposed by Continental).

In support of the proposed favored-nation rate increases, Continental submits copies of letters dated November 1, 1957, from El Paso Natural Gas Company (El Paso) notifying Continental that effective January 1, 1958, El Paso was increasing by 1 cent per Mcf the price it was paying for purchased gas. In addition, Continental states that the pricing provisions of the contracts were arrived at from good faith arm's-length bargaining and are an integral part of the consideration and to deny the proposed increases is a denial of Continental's constitutional rights.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 10 to Continental's FPC Gas Rate Schedule No. 85, and Supplement No. 7 to Continental's FPC Gas Rate Schedule No. 92 be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 10 to Continental's FPC Gas Rate Schedule No. 85, and Supplement No. 7 to Continental's FPC Gas Rate Schedule No. 92.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until December 10, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(c) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of

practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission (Commissioner Kline dissenting).

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-5382; Filed, July 14, 1958; 8:52 a. m.]

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[Docket No. G-15418]

TEXAS CO.

ORDER FOR HEARING AND SUSPENDING PROPOSED CHANGES IN RATES

JULY 9, 1958.

The Texas Company (Texas) on June 9, 1958, tendered for filing proposed changes in its presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. The proposed changes, which constitute increased rates and charges, are contained in the following designated filings:

Description: Notices of Change, undated.
Purchaser: Texas Eastern Transmission Corporation.
Rate schedule designation: Supplement No. 10 to Texas' FPC Gas Rate Schedule No. 88; Supplement No. 12 to Texas' FPC Gas Rate Schedule No. 89; Supplement No. 9 to Texas' FPC Gas Rate Schedule No. 90; Supplement No. 9 to Texas' FPC Gas Rate Schedule No. 96; Supplement No. 13 to Texas' FPC Gas Rate Schedule No. 97.
Effective date: July 10, 1958 (the stated effective date is the first day after expiration of the required thirty days' notice).

In support of the proposed favored-nation rate increases, Texas submits copies of letters from Texas Eastern Transmission Corporation (Texas Eastern) stating that Texas Eastern has agreed with other producers in South Central Texas to a redetermined price of 13.8733 cents per Mcf, including reimbursement for existing taxes, for the five-year period commencing February 5, 1958. Texas states that the increase comprises a part of the overall consideration to partially compensate it for continuously increasing development, operation and maintenance costs and the further increases in exploratory expenditures due to deeper drilling and the diminishing frequency of successful discoveries. Texas further states that United Gas Pipe Line Company (United Gas) has contracted for gas in Bee County at 17 cents per Mcf; that intrastate gas is being purchased in Refugio County by Houston Pipe Line Company and United Gas for 14.5 cents per Mcf, and that Texas Eastern is importing Mexican gas 120 miles to the south for 14.4 cents per Mcf.

The increased rates and charges so proposed have not been shown to be justified, and may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the said proposed changes, and that Supplement No. 10 to Texas' FPC Gas Rate Schedule No. 88; Supplement No. 12 to Texas' FPC Gas Rate Schedule No. 89; Supplement No. 9 to Texas' FPC Gas Rate Schedule No. 90; Supplement No. 9 to Texas' FPC Gas Rate Schedule No. 96, and Supplement No. 13 to Texas' FPC Gas Rate Schedule No. 97, be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing be held upon a date to be fixed by notice from the Secretary concerning the lawfulness of the proposed increased rates and charges contained in Supplement No. 10 to Texas' FPC Gas Rate Schedule No. 88; Supplement No. 12 to Texas' FPC Gas Rate Schedule No. 89; Supplement No. 9 to Texas' FPC Gas Rate Schedule No. 90; Supplement No. 9 to Texas' FPC Gas Rate Schedule No. 96, and Supplement No. 13 to Texas' FPC Gas Rate Schedule No. 97.

(B) Pending such hearing and decision thereon, said supplements be and they are each hereby suspended and the use thereof deferred until December 10, 1958, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until this proceeding has been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Interested State commissions may participate as provided by §§ 1.8 and 1.37 (f) of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.37 (f)).

By the Commission.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-5383; Filed, July 14, 1958; 8:53 a. m.]

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[Docket Nos. G-13189, G-13374]

SANTA ROSA GAS CO. AND EL PASO NATURAL GAS CO.

NOTICE OF APPLICATIONS AND DATE OF HEARING

JULY 9, 1958.

Take notice that on October 7, 1957, El Paso Natural Gas Company (El Paso) filed in Docket No. G-13374 an application pursuant to section 7 (c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain field facilities for the purpose of purchasing and receiving natural gas from Santa Rosa Gas Company (Santa Rosa) from the latter's holdings in the Fort Stockton Field, Pecos County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The facilities for which authorization is sought by El Paso are:

(1) Approximately 21.4 miles of 10¾-inch O. D. lateral supply pipeline to extend from the existing processing plant owned and operated by the Pecos Company (Pecos) in Pecos County, to a proposed compressor station to be known as the Fort Stockton Compressor Station to be installed in the Fort Stockton Field by Santa Rosa;

(2) Approximately 18.4 miles of 8⅝-inch O. D. pipeline looping a portion of El Paso's existing 8⅝-inch O. D. line which extends from its existing Sealy Smith Plant to the aforesaid Pecos Plant (the portion to be looped extends from a point in Ward County, Texas, to the Pecos Plant);

(3) Additional metering facilities to be installed at the aforesaid Pecos Plant.

The estimated total initial cost of the above facilities is $946,000, which cost will be financed from current working funds.

On August 29, 1957, Santa Rosa filed in Docket No. G-13189 an application pursuant to section 7 (c) for a certificate of public convenience and necessity covering the above sale of gas to be made pursuant to a 20-year residue gas purchase contract executed by and between El Paso and Santa Rosa. The seller is a partnership consisting of Chas. J. Brown II, James Doughty, B. F. Harrison, Pierre M. Aubuchon and Chester L. Wheless, all of whom are signatory seller parties to the contract for Santa Rosa.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on August 12, 1958, at 9:30 a. m., e. d. s. t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D. C., concerning the matters involved in and the issues presented by such applications: *Provided, however,* That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30 (c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D. C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 30, 1958. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

[SEAL] JOSEPH H. GUTRIDE, *Secretary.*

[F. R. Doc. 58-5384; Filed, July 14, 1958; 8:53 a. m.]

## GENERAL SERVICES ADMINISTRATION

[Delegation of Authority 294, Supplement 1]

SECRETARY OF COMMERCE

DELEGATION OF AUTHORITY WITH RESPECT TO NEGOTIATION OF CERTAIN CONTRACTS FOR SUPPLIES AND SERVICES IN CONNECTION WITH BUREAU OF THE CENSUS PROGRAMS

a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, paragraph 6 of Delegation of Authority No. 294, dated June 18, 1957 (22 F. R. 4460), is hereby rescinded and the following paragraph is substituted in lieu thereof:

6. This delegation shall be effective as of the date hereof and shall not extend beyond December 31, 1959.

b. All other provisions of Delegation of Authority No. 294 shall remain in force and effect.

c. This supplement shall be effective as of July 1, 1958.

Dated: July 9, 1958.

FRANKLIN FLOETE,
*Administrator.*

[F. R. Doc. 58-5375; Filed, July 14, 1958; 8:51 a. m.]

## INTERSTATE COMMERCE COMMISSION

[No. 32405]

FRESH MEATS; WESTERN TRUNK LINE, SOUTHWESTERN AND CENTRAL TERRITORIES TO EASTERN TRUNK LINE AND NEW ENGLAND TERRITORIES

NOTICE OF INVESTIGATION AND HEARING WITH RESPECT TO TRANSPORTATION RATES, CHARGES, RULES, REGULATIONS AND PRACTICES

At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D. C., on the 24th day of June A. D. 1958.

It appearing that certain motor carrier rates from origins in Central and Southwestern Territories to destinations in Trunk Line and New England Territories are under investigation in I. & S. Docket No. M-11010 and that certain rail rates from certain origins in Central Territory to destinations in Trunk Line and New England Territories are under investigation in Docket No. 32356;

It further appearing that upon consideration of the petition dated April 11, 1958, of Eastern Meat Packers Association, National Live Stock Producers Association, American National Cattlemen's Association and National Wool Growers Association for an investigation by the Commission into the lawfulness of the rates, charges, rules, regulations and practices governing the transportation of fresh meats, in truckloads, by motor carriers, from origins in Arkansas, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, North Dakota, South Dakota, and Texas to destinations in Delaware, District of Columbia, Maryland, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; joint replies of certain eastern railroads, and of John Morrell & Company, The Rath Packing Company, Geo. A. Hormel & Company and Oscar Mayer & Company;

And it further appearing that this proceeding should embrace schedules setting forth rates on fresh meats, in truckloads, and the rules and regulations and practices relating thereto, of motor common and contract carriers operating from and to the points defined below; and good cause appearing therefor:

*It is ordered,* That an investigation be, and it is hereby, instituted into and concerning the lawfulness of the rates, charges, rules, regulations and practices contained in schedules of all common and contract motor carriers, other than the respondents named in I. & S. Docket No. M-11010, Fresh Meats—Central and Southwest to East from origins described in the schedules suspended by order dated March 19, 1958, and supplemental orders thereto, in the aforesaid numbered docket, to destinations in the States named in the second paragraph above as more particularly described in the aforesaid schedules; and including the rates, charges, rules, regulations and practices of all motor common and contract carriers from origins named in Docket No. 32356, Fresh Meats—Midwest to East, not included in No. M-11010;

*It is further ordered,* That the investigation in this proceeding shall also include the lawfulness of the rates, charges, rules, regulations and practices contained in schedules of rail carriers from origins of Amarillo, Dallas, and Fort Worth, Texas; Oklahoma City, Oklahoma; Kansas City, and Wichita, Kansas; St. Joseph and St. Louis, Missouri; Alton and East St. Louis, Illinois; Davenport, Iowa; Louisville, Kentucky; and Cincinnati, Ohio, to destinations set forth in the first ordering paragraph which are published either as joint through rates on combination rates over the Mississippi River crossings;

*And it is further ordered,* That the carriers parties to the said schedules set forth in the first two ordering paragraphs be, and they are hereby, made respondents to this proceeding, and that a copy of this order be forthwith served upon the said respondents; and that notice of this proceeding be given the public by posting a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Division of Federal Register;

*And it is further ordered,* That these proceedings be assigned for hearing on the 28th day of July A. D. 1958, at 8:30 o'clock a. m., United States standard time (9:30 o'clock a. m., District of Columbia daylight saving time), at the offices of the Interstate Commerce Commission, Washington, D. C., before Examiner Walter D. McCloud.

By the Commission, Division 2.

[SEAL] HAROLD D. McCOY,
*Secretary.*

[F. R. Doc. 58-5371; Filed, July 14, 1958; 8:50 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 24 NY-4416]

THE AMISH CO.

ORDER VACATING ORDER OF SUSPENSION

JULY 8, 1858.

In the matter of Michael Laurence and Stephen Richards as "The Amish Company," File No. 24 NY-4416.

Michael Lawrence and Stephen Richards as "The Amish Company", 41 West 86th Street, New York, New York, filed with the Commission on December 7, 1956 a notification on Form 1-A and offering circular relating to an offering of $96,000 aggregate amount of pre-formation limited partnership interests for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3 (b) thereof and Regulation A, promulgated thereunder;

The Commission on June 9, 1958 ordered, pursuant to Rule 261 (a) of the general rules and regulations under the Securities Act of 1933, as amended, that the conditional exemption under Regulation A sought for the offering be temporarily suspended on the ground that the terms and conditions of Regulation A had not been complied with in that Form 2-A reports of sales, as required by Rule 260, had not been filed.

Subsequent to the Commission's action temporarily suspending the exemption, a Form 2-A report was filed reflecting that an aggregate of $11,200 interests had been sold as of November 15, 1957, and the unsold portion was withdrawn from the offering.

It appearing to the Commission that a hearing is not necessary or appropriate in the public interest or for the protection of investors;

*It is ordered,* Pursuant to Rule 261 (b) of the general rules and regulations under the Securities Act of 1933, as amended, that said temporary order of suspension be, and it hereby is, vacated.

By the Commission.

[SEAL] NELLYE A. THORSEN,
*Assistant Secretary.*

[F. R. Doc. 58-5353; Filed, July 14, 1958; 8:46 a. m.]

[File No. 70-3713]

UTAH POWER AND LIGHT CO.

NOTICE OF PROPOSED ISSUE AND SALE AT COMPETITIVE BIDDING OF FIRST MORTGAGE BONDS

JULY 8, 1958.

Notice is hereby given that Utah Power & Light Company ("Utah"), a Maine Corporation and a registered holding company which is also a public-utility operating company, has filed a declaration pursuant to the Public Utility Holding Company Act of 1935 ("act"), designating sections 6 (a) and 7 of the act and Rule 50 thereunder as applicable to the proposed transaction, which is summarized as follows:

Utah proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the act, $20,000,000 principal amount of First Mortgage Bonds, __ percent Series, due 1988, to be dated August 1, 1958, and to mature August 1, 1988.

The interest rate on the Bonds (a multiple of ⅛ of 1 percent) and the price (exclusive of accrued interest) to be paid for the Bonds (not less than 100 percent nor more than 102¾ of the principal amount) will be determined by competitive bidding. The Bonds will be issued under Utah's Mortgage and Deed of Trust to Guaranty Trust Company of New York et al., dated as of December 1, 1943, as heretofore supplemented and as further supplemented by a Twelfth Supplemental Indenture to be dated as of August 1, 1958. Such bonds will also be entitled to the benefit of the Indenture dated as of December 1, 1943, between Utah's subsidiary, The Western Colorado Power Company, and said trustees.

Utah states that part of the net proceeds from the sale of said Bonds will be used to redeem $15,000,000 principal amount of 1988 series bonds, 5¼ percent Series, due 1987, at 107.54 percent of their principal amount plus accrued interest; to pay bank loans aggregating $4,000,000; and that the remainder of such proceeds will be applied toward Utah's construction program. The filing states that the construction program of it and its two subsidiaries for the three year period 1958 through 1960 calls for the expenditure of an aggregate of $43,000,000, of which $39,800,000 applies to Utah.

Utah estimates that its expenses in connection with the issue and sale of said Bonds will be as follows:

| | |
|---|---|
| Federal stamp taxes | $22,000 |
| Filing fees, this Commission | 2,040 |
| Trustee's fees | 7,800 |
| Auditors' fees (Haskins & Sells) | 3,000 |
| Fees of Company counsel (Reid & Priest) | 10,000 |
| Printing and engraving | 22,500 |
| Charges of Ebasco Services Incorporated | 6,000 |
| Miscellaneous | 2,660 |
| Total | 76,000 |

The fees of Beekman & Bogue, counsel to the underwriters, estimated at $8,500, will be paid by the successful bidders.

Utah has filed applications for the apoval of the issuance and sale of said Bonds with the Public Service Commission of Wyoming and the Idaho Public Utilities Commission, which, in the opinion of Utah's counsel, are the only state regulatory commissions having jurisdiction in the premises.

Notice is further given that any interested person may, not later than July 23, 1958, at 5:30 p. m., request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law, if any, raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D. C. At any time after said date the declaration, as filed or as amended, may be permitted to become effective as provided in Rule 23 of the rules and regulations promulgated under the act, or the Commission may grant exemption from said rules as provided in rules 20 (a) and 100 under the act, or take such other action as it may deem appropriate.

By the Commission.

[SEAL] NELLYE A. THORSEN,
*Assistant Secretary.*

[F. R. Doc. 58-5354; Filed, July 14, 1958; 8:46 a. m.]

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Area 191]

OKLAHOMA

DECLARATION OF DISASTER AREA

Whereas, it has been reported that during the month of June, 1958, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Oklahoma;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and considered by the Offices below indicated from persons or firms whose property situated in the following Counties (including any areas adjacent to said Counties) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

Counties: Creek and Logan (Flash flood occurring on or about June 26, 1958).

Offices: Small Business Administration Regional Office, Fidelity Building, 1000 Main Street, Dallas 2, Tex. Small Business Administration Branch Office, Bankers Service Life Building, Room 315, 114 No. Broadway, Oklahoma City 2, Okla.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to December 31, 1958.

Dated: June 30, 1958.

WENDELL B. BARNES,
*Administrator.*

[F. R. Doc. 58-5355; Filed, July 14, 1958; 8:46 a. m.]

[Declaration of Disaster Area 189]

KANSAS

DECLARATION OF DISASTER AREA

Whereas, it has been reported that during the month of June, 1958, because of the effects of certain disasters, damage resulted to residences and business property located in certain areas in the State of Kansas;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act of 1953, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 207 (b) (1) of the Small Business Act of 1953, as amended, may be received and considered by the Offices below indicated from persons or firms whose property situated in the following County (including any areas adjacent to said County) suffered damage or other destruction as a result of the catastrophe hereinafter referred to:

County: Butler (Tornado occurring on or about June 10, 1958).

Offices: Small Business Administration Regional Office, Home Savings Building, Fifth Floor, 1006 Grand Avenue, Kansas City 6, Mo. Small Business Administration Branch Office, 301 Bitting Building, 107 North Market Street, Wichita 2, Kansas.

2. No special field offices will be established at this time.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to December 31, 1958.

Dated: June 11, 1958.

WENDELL B. BARNES,
*Administrator.*

[F. R. Doc. 58-5356; Filed, July 14, 1958; 8:47 a. m.]